

FORTY-THIRD DAY.

(Friday, March 9, 1917.)

The House met at 9:30 o'clock a. m., pursuant to adjournment.
(Speaker Fuller in the chair.)

The roll was called, and the following members were present:

Bagby.	Lee.
Baker.	Lindemann.
Beard of Harris.	Lowe
Beard of Milam.	of McMullen.
Beasley.	Low
Beason.	of Washington.
Bedell.	McComb.
Bertram.	McDowra.
Blackburn.	McCoy.
Blackmon.	McFarland.
Blalock.	McMillin.
Bland.	Martin.
Bledsoe.	Meador.
Boner.	Mendell.
Brown.	Metcalfe.
Bryan.	Miller of Austin.
Bryant.	Miller of Dallas.
Burton of Rusk.	Monday.
Butler.	Moore.
Caddenhead.	Morris.
Canales.	Murrell.
Carlock.	Neeley.
Cates.	Neill.
Clark.	Nichols.
Cope.	Nordhaus.
Cox.	O'Banion.
Crudgington.	O'Brien.
Davis of Dallas.	Osborne.
Davis of Grimes.	Parks.
Davis	Peddy.
of Van Zandt.	Peyton.
De Bogory.	Pillow.
Denton.	Pope.
Dodd.	Poage.
Dudley.	Raiden.
Dunnam.	Reeves.
Estes.	Richards.
Fairchild.	Robertson.
Fisher.	Roemer.
Florer.	Rogers.
Fly.	Russell.
Greenwood.	Sackett.
Haidusek.	Sallas.
Hardey.	Sentell.
Harris.	Schlesinger.
Hartman.	Schlosshan.
Hawkins.	Scholl.
Hill.	Seawright.
Holland.	Sholars.
Hudspeth.	Smith of Bastrop.
Johnson.	Smith of Hopkins.
Jones.	Smith of Scurry.
Laas.	Spencer of Wise.
Lacey.	Spradley.
Laney.	Stewart.
Lange.	Swope.
Lanier.	Taylor.

Templeton.	Trayler.
Terrell.	Tschoepe.
Thomas.	Valentine.
Thomason	Veatch.
of El Paso.	Walker.
Thomason	White.
of Nacogdoches.	Williams
Thompson	of McLennan.
of Hunt.	Williford.
Thompson	Wilson.
of Red River.	Woods.
Tillotson.	Woodul.
Tilson.	Yantis.
Tinner.	

Absent.

Spencer of Nolan.

Absent—Excused.

Bell.	Upchurch.
Burton of Tarrant.	Wahrmund.
Fitzpatrick.	Williams
Strayhorn.	of Brazoria.

A quorum was announced present.

Prayer was offered by Rev. J. C. Mitchell, Chaplain, as follows:

Hear us, we pray, our Father, and attend unto our prayer. Let every moment of this present day bring constructive legislation—the kind that will bring joy and gladness, peace and happiness, into all the homes of all the people of the State of Texas. Hear us now, and answer us in tender mercy, for Jesus' sake. Amen.

LEAVES OF ABSENCE GRANTED.

The following members were granted leaves of absence on account of important business:

Mr. Williams of Brazoria, for today, on motion of Mr. Hawkins.

Mr. Upchurch, for yesterday, today and tomorrow, on motion of Mr. Rogers.

Mr. Fitzpatrick, for yesterday, today and tomorrow, on motion of Mr. Cox.

HOUSE BILLS ON FIRST READING.

The following House bills, introduced today, were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

By Mr. Lanier:

H. B. No. 829, A bill to be entitled "An Act to amend Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 of the special road laws of Cass county, Texas, enacted by the Regular Session of the Thirty-third Legislature, 1913, which became effective March 5, 1913, same being 'An Act to create a more efficient road law for Cass county, making

the county commissioners ex-officio road supervisors, defining their duties and fixing their salaries, providing for the appointment of a civil engineer and naming the salary of said civil engineer."

Referred to Committee on Roads, Bridges and Ferries.

By Mr. Robertson:

H. B. No. 830, A bill to be entitled "An Act concerning loan and investment companies, defining same and providing for their incorporation, powers and supervision."

Referred to Committee on Banks and Banking.

By Mr. Bagby and Mr. Cope:

H. B. No. 831, A bill to be entitled "An Act setting aside the building now occupied and used as a General Land Office and located in Austin, Travis county, Texas, in order that the Daughters of the Republic and the Texas Division of the Daughters of the Confederacy might accumulate the mementos and relics, and preserve and perpetuate the history and traditions of the Southland of our commonwealth; providing how said building shall be used by the respective parties; making an appropriation for the repairing and remodeling of said building, and declaring an emergency."

Referred to Committee on Public Buildings and Grounds.

By Mr. Mendell, Mr. Neill and Mr. Crudgington:

H. B. No. 832, A bill to be entitled "An Act to provide for the maintenance and keeping of private lots in cemeteries."

Referred to Committee on Municipal Corporations.

BILLS ORDERED NOT PRINTED.

On motion of Mr. Metcalfe, it was ordered that Senate bill No. 381 be not printed.

On motion of Mr. Robertson, it was ordered that Senate bill No. 98 be not printed.

On motion of Mr. Scholl; it was ordered that Senate bill No. 334 be not printed.

On motion of Mr. Jones, it was ordered that House bill No. 820 be not printed.

On motion of Mr. Florer, it was ordered that Senate bill No. 267 be not printed.

On motion of Mr. Monday, it was ordered that House bill No. 239 be not printed.

On motion of Mr. Schlesinger, it was ordered that Senate bill No. 456 be not printed.

BILL RECOMMITTED.

On motion of Mr. Yantis, Senate bill No. 359 was recommitted to the Committee on Stock and Stock Raising.

HOUSE JOINT RESOLUTION NO. 19 ON FINAL PASSAGE.

The Speaker laid before the House, as unfinished business, on its final passage,

H. J. R. No. 19, Proposing submitting a certain proposed amendment to Section 51, Article 3, of the Constitution of the State of Texas, giving power to the Legislature of the State to grant pensions to Confederate soldiers and their widows who came to Texas prior to January 1, 1912, and prescribe the form of ballot authorizing and directing the Governor to issue proclamation for said election, and providing that the election be held on the first Tuesday of the first Monday in November, 1917; directing the Secretary of State to publish copies of the proposed amendment in pamphlet form, to make publications required by the Constitution, and making an appropriation therefor, and also providing if the Governor should fail to issue the necessary proclamation, that it shall be the duty of the election officers in the several polling places throughout the State to open the polls and conduct the election as prescribed by law for holding elections for the election of State officers, and to make the returns thereof, as required by the Constitution and the laws of this State.

The resolution having been read third time on Saturday, February 24.

The clerk was directed to call the roll, and the resolution failed to pass by the following vote (not receiving the necessary two-thirds vote):

Yeas—71.

Bagby.	Bledsoe.
Baker.	Boner.
Beard of Harris.	Brown.
Beard of Milam.	Bryant.
Beason.	Burton of Rusk.
Bedell.	Butler.
Blackburn.	Cadenhead.
Blackmon.	Canales.
Blalock.	Cates.

Cope.	Reeves.
Crudgington.	Roemer.
Davis of Dallas.	Sackett.
Davis of Grimes.	Sallas.
De Bogory.	Schlesinger.
Dodd.	Schlosshan.
Estes.	Scholl.
Holland.	Sholars.
Hudspeth.	Smith of Bastrop.
Laas.	Smith of Hopkins.
Lacey.	Smith of Scurry.
Lange.	Spencer of Wise.
Lee.	Spradley.
McFarland.	Taylor.
Meador.	Templeton.
Mendell.	Terrell.
Metcalfe.	Thomas.
Miller of Dallas.	Thompson
Monday.	of Red River.
Morris.	Tilson.
Neill.	Traylor.
O'Banion.	Valentine.
Osborne.	Veatch.
Parks.	Walker.
Peddy.	Williford.
Pillow.	Wilson.
Raiden.	Woodul.

Nays—36.

Bertram.	McComb.
Bland.	McDowra.
Bryan.	McMillin.
Carlock.	Miller of Austin.
Dunnam.	Murrell.
Fairchild.	Nichols.
Fisher.	Poage.
Fly.	Russell.
Haidusek.	Sentell.
Hardey.	Seawright.
Harris.	Stewart.
Hartman.	Swope.
Hawkins.	Thompson
Hill.	of Hunt.
Laney.	Tillotson.
Lanier.	Tinner.
Lindemann.	Tschoepe.
Lowe	White.
of McMullen.	Yantis.

Present—Not Voting.

Woods.

Absent.

Beasley.	Moore.
Clark.	Neeley.
Cox.	Nordhaus.
Denton.	O'Brien.
Dudley.	Peyton.
Florer.	Richards.
Greenwood.	Robertson.
Johnson.	Rogers.
Jones.	Spencer of Nolan.
Low.	Thomason
of Washington.	of Nacogdoches.
McCoy.	Williams
Martin.	of McLennan.

Absent—Excused.

Bell.	Thomason
Burton of Tarrant.	of El Paso.
Davis	Upchurch.
of Van Zandt.	Wahrmund.
Fitzpatrick.	Williams
Pope.	of Brazoria.
Strayhorn.	

SENATE BILL NO. 182 ON THIRD READING.

On motion of Mr. Miller of Dallas, by unanimous consent, the regular order of business was suspended, to take up and have placed on its third reading and final passage,

S. B. No. 182, A bill to be entitled "An Act to further regulate the organization, supervision and control of State banks and bank and trust companies incorporated under the general banking laws of the State of Texas, and declaring an emergency."

The Speaker laid the bill before the House, it was read third time and was passed.

Mr. Miller of Dallas moved to reconsider the vote by which the bill was passed, and to table the motion to reconsider.

The motion to table prevailed.

RELATING TO FINAL ADJOURNMENT.

Mr. Bland offered the following resolution:

H. C. R. No. 21, To fix the date of final adjournment of the Legislature.

Resolved by the House of Representatives, the Senate concurring, That the Regular Session of the Thirty-fifth Legislature shall stand adjourned sine die at 12 o'clock, noon, Saturday, March 17, 1917.

Signed—Russell, Laas, Hardey, Lee, Carlock, Blackburn, Williams of McLennan, Low of Washington, Swope, Fairchild, Nordhaus, Cates, Holland, Sholars, Monday, Bland, Miller of Dallas, Cox, Laney, Woodul, Davis of Grimes, Williford, Neill, Lowe of McMullen, Tillotson, White, Schlesinger, Scholl, Hartman, McFarland, Walker, Bagby, Lindemann, Martin, Richards, Valentine, Tilson, Dudley.

The resolution was read second time.

On motion of Mr. McFarland, the resolution was laid upon the table subject to call.

HOUSE BILL NO. 237 ON SECOND
READING.

(Special Order.)

The Speaker laid before the House, as a special order for this hour, on its second reading and passage to engrossment,

H. B. No. 237, A bill to be entitled "An Act to provide a more adequate system of laws relating to irrigation and declaring the unappropriated waters of the State the property of the State; authorizing their appropriation, storage and diversion for beneficial uses; perpetuating the Board of Water Engineers and prescribing its powers, duties and compensation; defining water rights and prescribing the method of acquiring, perfecting and preserving same; requiring application to be made to the Board of Water Engineers for permits to construct storage, diversion and distribution works, and prescribing the method thereof; limiting the right to the waters of the State to beneficial uses, and declaring forfeiture for abandonment of use; prescribing standards for the measurement of water; providing a method for the determination of water rights by the Board of Water Engineers; authorizing appeals from the decisions of the State Board of Water Engineers, and regulating the manner thereof; prescribing the method of serving notices on claimants and appropriators of water, and declaring the effects of failure to observe the same; authorizing the issuance of certificates of water rights and the recording thereof; fixing certain fees; creating the office of Water Commissioner and prescribing the duties and compensation thereof; authorizing the appointment of special assistants and prescribing their duties and compensation; dividing the State into water divisions and providing for water districts; prescribing the method for determining and recording titles to irrigation works, and establishing the period of limitation to quiet titles thereto; regulating partnership ditches; conferring the right of eminent domain in aid of construction of irrigation works; prohibiting the seeding of Johnson grass or Russian thistle on irrigation canals; prescribing penalties for violation of the provisions of this act; requiring the making of annual report to the Board of Water Engineers; requiring the control of flowing artesian wells; authorizing the chartering of corporations to construct and operate irrigation and other works; authorizing contracts for the supply and delivery of water, and creating liens to secure payment there-

of; authorizing the acquisition of lands by irrigation companies, and requiring the alienation thereof; repealing all laws in conflict herewith, and declaring an emergency."

The bill was read second time.

Mr. Canales offered the following (committee) amendments to the bill:

(1)

Amend H. B. No. 237 by striking out all after the enacting clause and inserting the following:

Section 1. The unowned and unappropriated waters of the ordinary flow and underflow and tides of every flowing river or natural stream, of all lakes, bays or arms of the Gulf of Mexico, collections of still water, and of the storm, flood or rain waters of every river or natural stream, canyon, ravine, depression or watershed, within the State of Texas, are hereby declared to be the property of the State, and the right to the use thereof may be acquired by appropriation in the manner and for the uses and purposes hereinafter provided.

Sec. 2. The storm, flood or rain waters described in the preceding section may be held or stored by dams, in lakes or reservoirs, or diverted by means of canals, ditches, intakes, pumping plants, or other works, constructed by any person, corporation, association of persons, or irrigation district created under the Statutes, for the purpose of irrigation, mining, milling, manufacturing, the development of power, the construction and operation of waterworks for cities and towns, or for stock raising.

Sec. 3. The ordinary flow and underflow of the flowing water and tides of every natural river, or stream, within the State of Texas, may be taken or diverted from its natural channel by any of the persons named in the preceding section for any of the purposes stated therein; provided, that such ordinary flow and underflow shall not be diverted to the prejudice of the vested rights of any riparian owner without his consent except condemnation thereof in the manner hereinafter provided. The waters of any arm or inlet of the Gulf of Mexico, structure, and taken or diverted by any of the persons named in this section for any of the purposes stated herein.

Sec. 4. The appropriation of water must be for irrigation, mining, milling, manufacturing, the development of power, the construction and operation of waterworks for cities and towns, or

for stock raising. Provided, that so far as practicable and within the limits of the public welfare, the water engineering board hereinafter created shall subordinate the appropriation of water for power to the appropriation of water for irrigation.

Sec. 5. As between appropriators, the first in time is the first in right.

Sec. 6. For the purpose of this Act, an appropriator is any person, association of persons, corporation or irrigation district, who has heretofore made beneficial use of any water, in a lawful manner, under the provisions of any act of the Legislature of the State of Texas, prior to the passage of Chapter 171 of the General Laws of the Thirty-third Legislature of Texas, and who has filed with the State Board of Water Engineers a record of his appropriation, as required by said Act of the Thirty-third Legislature, or who has heretofore or may hereafter make beneficial use of any water within the limitations of a permit lawfully issued by the Board of Water Engineers, and no appropriation of any water shall be considered as having been beneficially used for one or more of the purposes named in this act, and for the purpose or purposes stated in the original declaration of intention to appropriate such water, or stated in the permit issued by the Board of Water Engineers.

Sec. 7. Neither the foregoing section nor any other provision of this act shall be construed as intended to impair or to work or authorize the forfeiture of, or shall impair or work or authorize the forfeiture of, any rights heretofore or hereafter acquired by any declaration of appropriation or by permit when the appropriator has begun, or begins, the work and development contemplated by his declaration of appropriation, within the time provided in the law under which the same was or is made and has prosecuted, and continue to prosecute, the same with all reasonable diligence toward completion; but if any appropriator under this act, or other law of this State, has failed or fails to begin the work and development contemplated by his declaration of appropriation within the time provided in the law under which the same was or is made, or has failed or fails, to prosecute the same with all reasonable diligence toward completion, his right to such water as has not been applied, or is not applied, to beneficial use, as defined in section nine of this act shall be considered as, and

shall be, forfeited, and such water shall be subject to new appropriation under this act; provided, that no such rights shall be declared forfeited until the person or persons who are the owners of the land and whose rights are claimed to have been forfeited, shall first be given due notice and hearing as required in Section 33 of this act, and provided further, that if a permit for the use of such water has been issued, or is issued under this act, or under the act approved April the 9th, 1913, such water shall not be subject to new appropriation until the permit is cancelled by the board in whole, or in part, in accordance with the provisions of Section 33 of this act.

Sec. 8. The State shall be and is hereby divided into three water divisions, as follows:

All that portion of the State of Texas, lying north of the thirtieth parallel, north latitude, and west of the one hundredth meridian west longitude, shall constitute Water Division No. 1.

All that portion of the State of Texas lying east of the ninety-seventh meridian west longitude, and south of the thirtieth parallel north latitude, together with all that portion lying north of the thirtieth parallel north latitude and east of the one hundredth meridian west longitude, shall constitute Water Division No. 2.

All that portion of the State of Texas not embraced in Water Division No. 1 or Water Division No. 2, as hereinbefore defined, shall constitute Water Division No. 3.

Sec. 9. For the purposes of this act, beneficial use shall be held to mean the use of such a quantity of water, when reasonable intelligence and reasonable diligence are exercised in its application for a lawful purpose, as is economically necessary for that purpose.

Sec. 10. The Board of Water Engineers, created and constituted by the Act of the Thirty-third Legislature, Chapter 171, General Laws, approved April 9, 1913, is hereby continued, and the members constituting such board shall continue in office for the respective terms for which they were appointed, and until their successors are appointed and qualified, unless sooner removed in the manner provided by law. Said board shall be composed of three members, one of whom shall be appointed from each of the respective water divisions described

in Section 8. The members of such board shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall each hold office for a term of six years, and until his successor is appointed and qualified. No person shall be appointed a member of the board who has not such technical knowledge and such practical experience and skill as shall fit him for the duties of the office. Each member of such board shall enter into bond, to be approved by the Governor, in the penal sum of ten thousand dollars, with not less than two personal sureties, or with one surety or guaranty company authorized to do business in this State conditioned for the faithful discharge of the duties of his office, and for the delivery to his successor or other officer appointed by the Governor to receive same, all moneys, books and other property belonging to the State then in his hands or under his control, or with which he may be legally chargeable as a member of said board. The Governor shall have power to remove, at any time, for cause, any member of the State Board of Water Engineers, after such member shall have been given a full, free and public hearing by the Governor. The Governor shall fill all vacancies by appointment, with the advice and consent of the Senate.

Sec. 11. Each member of such board shall receive a salary of thirty-six hundred dollars per annum, payable in monthly installments, upon the presentation of salary vouchers, approved by the board.

Sec. 12. The members appointed shall meet at Austin and organize and elect one of their number chairman of said board. A majority of said board shall constitute a quorum to transact business. Said board shall appoint a secretary who shall be thoroughly conversant with irrigation law, at a salary of not more than twenty-five hundred dollars per annum, and who shall execute a bond in the sum of twenty-five hundred dollars, to be approved by the board, payable to the Board of Water Engineers, and the board may appoint such experts and employees as may be necessary to perform any duty that may be required of them by this act, and fix their compensation. The secretary shall keep full and accurate minutes of all transactions and proceedings of said board and perform such duties as may be required by the board. The board shall have power to make all needful rules for its gov-

ernment and proceedings; and shall have a seal, the form of which it shall prescribe. The board shall be furnished with an office at Austin, with necessary furniture, stationery, supplies, etc., at the expense of the State, to be paid for on the order of the board.

Sec. 13. The members, secretary, experts and employees of the board shall be entitled to receive from the State their necessary traveling expenses while traveling on the business of the board, upon an itemized statement, sworn to by the party who incurred the expense and approved by the board.

Sec. 14. The board may hold sessions at any place in this State, when deemed necessary to facilitate the discharge of its duties.

Sec. 15. Every person, association of persons, corporation or irrigation district, who shall, after this act shall take effect, desire to acquire the right to appropriate, for the purposes stated in this act, unappropriated water of the State, shall, before commencing the construction, enlargement or extension of any dam, lake, reservoir or other storage work, or of any ditch, canal, headgate, intake, pumping plant or other distributing work, or performing any work in connection with the storage, taking or diversion of water, make an application in writing to the board for a permit to make such appropriation, storage, or diversion.

Such application shall be in writing and sworn to; shall set forth the name and postoffice address of the applicant; the source of water supply; the nature and purposes of the proposed use; the location and description of the proposed dam, lake, reservoir, headgate, intake, pumping plant, ditch, canal or other work; the time within which it is proposed to begin construction; and the time required for the application of the water to the proposed use; and if such proposed use is for irrigation, a description of the lands proposed to be irrigated, and, as near as may be, the total acreage thereof.

Such application shall be accompanied by a map or plat drawn on tracing linen, on a scale not less than one inch equals two thousand feet, showing substantially the location and extent of the proposed works; the location of the headgate, intake, pumping plant or point of diversion by course and distance from permanent natural objects or land marks; the location of the main ditch

or canal and of the laterals or branches thereof; the course of the river, stream or other source of water supply; the position and area of all lakes, reservoirs or basins intended to be used or created, and the water line thereof, the intersection with all other ditches, canals, laterals, lakes or reservoirs the proposed work will touch or intersect, or with which connection will be made; and shall represent in ink of different color from that used to represent the proposed works, the location of all ditches, canals, laterals, reservoirs, lakes, dams, or other work of like character then existing on the ground, with a designation of the name of the owner thereof. Such map or plat shall contain the name of the proposed work or enterprise; the name or names of the applicants, and a certificate of the surveyor, giving the date of his survey, his name and postoffice address, and also the date of the application which it accompanies.

Nothing in this act shall be held or construed to require the filing of an application or procuring of any permit for the alteration, enlargement, extension or addition to any canal, ditch or other work that does not contemplate, or will not result in an increased appropriation, or the use of a larger volume of water, but before making any such alteration, enlargement, extension or addition, the person, association of persons, corporation or irrigation district desiring to make same, shall file with the Board of Water Engineers a detailed statement and plan, for the information of the board, of the work proposed to be done.

Sec. 16. Any person or association of persons, corporation, water improvement or irrigation district who desires to investigate the feasibility of any project having for its object the creation of a reservoir for the impounding of flood waters in quantities greater than five thousand acre-feet, and which if constructed will probably result in the use of five thousand acre-feet per annum, or more, and who has an organized engineering force adequate to expeditiously proceed with such investigation, shall, upon the presentation of such facts, duly verified, to the Board of Water Engineers, describing the locality of such proposed reservoir, have priority date from the time of filing of such presentation, should a permit be granted thereafter, for the purposes described in such presentation; provided, however, that nothing in this section or in this act shall affect or restrict the right of any person

or persons, owning lands in this State to construct on his own property any dam or reservoir which would impound or contain less than five thousand acre-feet of water.

Sec. 17. Upon the filing of such presentation, a fee of two hundred and fifty dollars shall be paid to the board for the use of the State, as provided for other fees collected under this act; no part of which shall be returned, except as hereinafter provided. This fee shall be held by the board for a period of twelve months from the date of its receipt, unless disposed of as hereinafter provided.

Sec. 18. Any person or association of persons, corporation, water improvement or irrigation district who have complied with the provisions of Sections 16 and 17, and who shall, within twelve months from the date of such presentation, file an application for a permit to store and use any of the flood waters of this State, in volumes of five thousand acre-feet, or more, for the objects and purposes, and at the locality set out in the presentation described in Sections 16 and 17, shall, when paying the fees described in Section 40, be credited with the two hundred and fifty dollars paid in accordance with the provisions of Section 17.

Sec. 19. If within twelve months after the filing of the presentation of facts described in Section 16, such relator shall elect not to apply for a permit, and shall file the results of his or its investigation in intelligible form, with the board, the board may, at its option, return all or part of said two hundred and fifty dollars, if in its judgment such information will be of equivalent value to the State.

Sec. 20. If the proposed taking or diversion of water for irrigation is of greater volume than nine cubic feet per second of time, the board may require the following in addition:

A continuous longitudinal profile; cross sections of the proposed channel; and detail plans and specifications of any structural work of whatever character entering into the proposed project, on such scales and with such definition as the board may deem necessary or expedient.

The board may also require the filing of a copy of the Engineer's field notes of any survey of such lake or reservoir, and all plans and specifications, where the project calls for a dam over six feet in height, either for the purpose of diversion or storage; and no work on such

project shall proceed until such approval is obtained.

The board may, in case the applicant is an incorporated company, require the filing of certified copies of the applicant's articles of incorporation, together with a statement of the names and addresses of its directors and officers; and the amount of its authorized and of its paid-up capital stock.

If the applicant be other than an incorporated company, the board may require the filing of a sworn statement, showing the names and addresses of the person or persons interested in same and the extent of such interest and of the financial condition of each such person.

Every such application shall be accompanied by the fees hereinafter provided, and shall not be filed or considered until such fees are paid.

Sec. 21. Drainage.—Whenever, in the opinion of the board the successful efficient operation of any existing or proposed irrigation system will, or may, be adversely affected by lack of adequate drainage facilities incident to the work proposed to be done by the applicant or applicants for a permit to appropriate public waters, the said applicant or applicants shall submit drainage plans adequate, in the opinion of the board, to guard against any present or future injury which the proposed works may entail.

Sec. 22. Upon the filing of such application, accompanied by the data and fees hereinbefore provided, it shall be the duty of the board to make a preliminary examination thereof; and if it appear that there is no unappropriated water in the source of supply, or that, for other reasons, the proposed appropriation should not be allowed, the board may thereupon reject such application; in which case, if the applicant shall elect not to proceed further, the board may return to such applicant any part of the fees accompanying such application.

The board shall determine whether the application, maps, plats, contours, plans, profiles and statements accompanying same, are in compliance with the provisions of this act, and with the regulations of the board, and may require the amendment thereof.

Sec. 23. All applications filed with the board shall be recorded in a well-bound book kept for that purpose in the office of said board, and shall be indexed alphabetically in the name of the applicant, of the stream or source from which such appropriation is sought to be made, and

the county in which appropriation is sought to be made.

Sec. 24. It shall be the duty of the board to reject all applications and refuse to issue the permit asked for, if there is no unappropriated water in the source of supply; or if the proposed use conflicts with existing water rights, or is detrimental to the public welfare. It shall be the duty of the board to approve all applications and issue the permit asked for, if such application is made in proper form in compliance with the provisions of this act and the regulations of said board; and is accompanied by the fees required in this act; and if the proposed appropriation contemplates the application of water to any of the uses and purposes provided for in this act; and does not impair existing water rights, or riparian rights, and is not detrimental to the public welfare.

Sec. 25. Before the board shall approve any such application and issue any such permit, notice of such application shall be given substantially in the following manner:

Such notice shall be in writing; shall state the name of the applicant and his residence; the date of the filing of the application in the office of the board; the purpose and extent of the proposed appropriation of water; the source of supply; the place at which the water is to be stored; or to be taken or diverted from the source of supply; together with such additional information as the board may deem necessary. If the proposed use is for irrigation, such notice shall contain a general description of the location and the area of the land to be irrigated. Such notice shall also state the time and place when and where such application will be heard by the board.

Sec. 26. Such notice shall be published once in each week for four consecutive weeks prior to the date stated in such notice for the hearing of such application in some newspaper having a general circulation in that section of the State in which the source of water is located. In addition to such publication, a copy of such notice shall be transmitted by the secretary of the board, by registered mail addressed to each claimant or appropriator of water from such source of water supply, the record of whose claim or appropriation has been filed in the office of the board. Such notice shall be mailed not less than twenty days before the date set for the hearing.

Sec. 27. At the time and place

stated in the notice, the board shall sit to hear such application. Any person, association of persons, corporation, or irrigation district may appear, in person or by attorney, and enter appearance in writing in said matter, and present objection to the issuance of permit. The board may receive evidence, orally or by affidavit, in support of and in opposition to the issuance of such permit; and may also hear arguments. It shall have power to adjourn such hearing from time to time and from place to place, and after full hearing to render decision in writing approving or rejecting such application. Such application may be approved or rejected in whole or in part. Provided, however, that nothing herein contained shall prevent the board from rejecting any application in whole, without the issuance of the notice herein required.

Sec. 28. The cost of publication of the notice herein required and the postage for mailing thereof shall in each case be paid by the applicant.

Sec. 29. In all litigation to which the board may be a party, the Attorney General shall represent the board.

Sec. 30. When any court of record in this State shall render any judgment, order or decree, affecting in any manner the title to any water right, claim, appropriation or irrigation works, or any matter over which the Board of Water Engineers is given supervision, under the provisions of this act, it shall be the duty of the clerk of such court to forthwith transmit to the office of the board a certified copy of such judgment, order or decree.

Sec. 31. The board, or anyone employed by the board, for that purpose, shall have, at all times, authority to inspect any impounding, diversion or distribution works during construction, to determine whether or not they are being constructed in a safe and approved manner, and in accordance with the order of the board theretofore issued.

Sec. 32. Every permit issued by the board, under the provisions of this act, shall be in writing, attested by the seal of said board, and shall contain substantially the following: The name of the applicant to whom issued; the date of the issuance thereof; the date of the filing of the original application therefor in the office of the board; the use or purpose for which the appropriation of water is to be made; the amount or volume of water authorized to be appropriated; a general description of the

source of supply from which the appropriation is proposed to be made; and if such appropriation is for irrigation, a description and statement of the approximate area of the lands to be irrigated; together with such other data and information as the board may prescribe. Upon the issuance of such permit, same shall be transmitted by the secretary of the board by registered mail to the county clerk of the county in which the appropriation is to be made; and upon receipt of a recording fee of one dollar, to be paid by the applicant, such clerk shall file and record the same in a well bound book provided and kept for that purpose only, and to index the same alphabetically under the name of the applicant and of the stream or source of water supply, and thereupon to deliver such permit upon demand to the applicant. Such permit, when thus filed in the office of the county clerk, shall be constructive notice of the filing of the application with the board; of the issuance of the permit; and of all the rights arising thereunder.

Sec. 33. Within ninety days after the date of issuance of the permit provided for in this act, the applicant seeking to appropriate water thereunder shall begin actual construction of the proposed ditch, canal, dam, lake, reservoir or other work, and shall prosecute the work thereon diligently and continuously to completion: provided, that the board may, by an order entered of record, extend the time for beginning the actual construction of such work for a period not to exceed twelve months from the date of issuance of such permit; and further provided, that if any applicant shall fail to comply with the requirements of this section, he, they or it shall thereby forfeit all rights under such permit. If any applicant to whom a permit is issued or one owning prior appropriation shall after beginning the actual construction of work, as provided in this section, fail to thereafter prosecute the same diligently and continuously to completion, the board may, after thirty days' notice to the applicant or owner of such appropriation, and giving him an opportunity to be heard, by an order entered of record, revoke and cancel such permit or appropriation in whole or in part; provided any party affected by such order shall have the right of appeal to the district court as in this act provided. A certified copy of such order shall be forthwith transmitted by the secretary of the board, by registered mail, to the clerk of the county in which such permit is

recorded, and which order shall be recorded by said county clerk.

Sec. 34. Any person, association of persons, corporation, water improvement or irrigation district, or any agent, officer, employe or representative of any person, association of persons, corporation or irrigation district, who shall wilfully take, divert or appropriate any of the water of this State, or the use of such water, for any purpose, without first complying with all the provisions of this act, shall be deemed guilty of a misdemeanor; and on conviction thereof, shall be fined in a sum not exceeding one hundred dollars, or by imprisonment in the county jail for a term not exceeding six months or by both such fine and imprisonment; and each day that such taking, diversion or appropriation of water shall continue shall constitute a separate offense; and the possession of such water, except when the right to its use is acquired in accordance with the provisions of law, shall be prima facie proof of the guilt of the person, association of persons, corporation, irrigation district, or the agent, officer, employe or representatives of any person, association of persons, corporation or irrigation district.

Sec. 35. In addition to the punishment prescribed in the last preceding section, any person, association of persons, corporation, water improvement or irrigation district, or any agent, officer, employe or representative of any such person, association of persons, corporation, water improvement or irrigation district, who shall wilfully take, divert or appropriate water of the State, or the use of such water, without first complying with the provisions of this act, shall be liable to a penalty of one hundred dollars per day for each and every day that such taking, diversion, appropriation, or use may be made, and the State may recover such penalties by suit brought for that purpose in any court of competent jurisdiction.

Sec. 36. When any permit is issued under the provisions of this act, the priority of the appropriation of water, or the claimant's right to the use of such water, shall date from the date of the filing of the original application in the office of the board.

Sec. 37. It shall be the duty of the board to make or cause to be made measurements and calculations of the flow of streams for which water may be appropriated, as provided in this act, commencing such work in those streams most used for irrigation or

other beneficial uses; to collect data and make surveys; to determine the most suitable location for constructing works to utilize the waters of the State; to ascertain the location and area of the lands best suited for irrigation; to examine and survey reservoir sites; and wherever practicable, to make estimates of the cost of proposed irrigation works, and the improvements of reservoir sites. It shall be the duty of the board to make itself conversant with the water courses of the State and of the needs of the State concerning irrigation matters, and the storage and conservation of the waters of the State for other purposes. The board shall make biennial reports in writing to the Governor, in which shall be included the data and information collected by said board, and in which shall be included such suggestions as to the amendment of existing laws and the enactment of new laws as the information and experience of the board may suggest. The board shall keep in its office full and proper records of its work, observations and calculations, all of which shall be the property of the State.

Sec. 38. It shall be the duty of the board to ascertain the duty of water, and to determine the proper quantities required for irrigation and other lawful uses in the several sections of the State in order to secure the highest beneficial use of such water, such work to be first conducted in those sections where, in the judgment of the board, the greatest necessity exists.

Sec. 39. Full authority is lodged with the board, on its own initiative, to condemn existing works, the existence or operation of which may, in the judgment of the board, become a public menace or dangerous to life and property; provided, that in all cases of proposed condemnation, the party or parties at interest shall be notified of such contemplated action, and may appear at a time stated and be heard. Provided, further, that in such cases the party or parties whose works may be condemned, shall have the right of appeal from the decision of the board, as provided herein, in all other cases of appeal.

Sec. 40. The board may adopt, promulgate and enforce such rules, regulations and modes of procedure as it may deem proper for the discharge of the duties incumbent upon it under the provisions of this act.

Sec. 41. The board shall charge and collect, for the benefit of the State, the following fees:

For filing each and every application for any purpose, a fee of seven and one-half dollars, and in addition thereto:

For filing each and every application for storage of water, except surface waters, a fee of five dollars, provided, that if the application shall contemplate and propose the storage of water in excess of five acre-feet, an additional fee of twenty-five cents shall be charged for each additional acre-foot in excess of five, up to and including one hundred acre-feet; for each additional one hundred acre-feet, or fraction thereof, in excess of one hundred, an additional fee of ten dollars, up to and including one thousand acre-feet; and for each additional thousand acre-feet, above one thousand, an additional fee of twenty-five dollars; provided, that no fee, based on storage, shall be charged for any proposed or contemplated storage of less than five acre-feet.

For filing each application contemplating and proposing the taking or diversion of water for the purpose of irrigation, ten cents for each and every acre proposed to be irrigated.

For filing each application proposing and contemplating the use of water for the purpose of developing hydraulic power, a fee of two cents for each foot or head for each cubic foot of water per second it is proposed to use.

For filing each application contemplating and proposing the taking, diversion, or use of flowing water for any other purpose than storage, irrigation of land, or the development of hydraulic power, as hereinbefore provided, five cents for each acre-foot of water consumed per annum.

Provided, that in estimating the aforesaid additional fees on a proposed appropriation contemplating the use of water for two or more of the aforesaid purposes, the fees charged shall be cumulative, and a charge made for each use, based on the quantity proposed for each separate use.

For the filing of each and every exhibit, map, affidavit, or other paper authorized to be filed in the office of the Board of Water Engineers a filing fee of twenty-five cents.

For recording each and every paper authorized or required to be recorded in the records of the office of the board, a fee of one dollar, and in addition thereto, a fee of fifteen cents per folio of one hundred words, in excess of two hundred.

For making and certifying each and

every copy of an instrument or paper authorized to be certified under the seal of the board a fee of one dollar, and in addition thereto, a fee of fifteen cents per folio of one hundred words, including the certificate.

For making and certifying copies of any map or blue print thereof, a fee of one dollar, and in addition thereto a fee of seventy-five cents for each hour or fraction thereof necessarily employed by the draughtsman in making such copy.

For filing each application for an extension of time within which to begin actual construction or to complete work, a fee equal to one-half of the original application fees in such case; provided, that if it be simultaneously sought to extend both the time for the beginning and completion of any work theretofore authorized, but one fee shall be charged; and in addition thereto, the usual fees for filing and recording such applications.

Sec. 42. A cubic foot of water per second of time shall be the standard unit for the measurement of flowing water, for the purpose of distributing water for beneficial uses. The standard unit for volume of static water shall be the acre-foot.

Sec. 43. A cubic foot per second of time is the quantity of water that will pass through an area of one square foot in one second, when flowing at an average velocity of one foot per second. An acre-foot is the quantity of water required to cover one acre one foot deep.

Sec. 44. A water right is the right to use the water of the State when such use has been acquired by the application of water under the Statutes of this State and for the purposes stated in this act. Such use shall be the basis, the measure and the limit to the right to use water of the State at all times, not exceeding in any case the limit of volume to which the user is entitled and the volume which is necessarily required and can be beneficially used for irrigation or other authorized uses.

Sec. 45. Rights to the use of water acquired under the provisions of this act shall be limited and restricted to so much thereof as may be necessarily required when beneficially used for the purposes stated in this act, irrespective of the capacity of the ditch or other works, and all the water not so applied shall not be considered as appropriated.

Sec. 46. Any appropriation or use of water heretofore made under any statute

of this State or hereafter made under the provisions of this act which shall be wilfully abandoned during any three successive years, shall be forfeited and the water formerly so used or appropriated shall be again subject to appropriation for the purposes stated in this act.

Sec. 47. Any person, association of persons, corporation, water improvement or irrigation district, who may have heretofore constructed or who may hereafter construct any dam or dams across any river, or other stream, for the purpose of storing water for any of the purposes set forth in Section 2 of this act shall have the right to appropriate the ordinary flow or underflow, or the storm, flood or rain waters of such stream, in amounts and quantities equal to the holding capacity of such dam or dams, by making application as provided for in Section 15 of this act, and such application shall have priority over all other applications; and, provided, that any such person, association of persons, corporations or irrigation district thus impounding water in any river, channel, lake or reservoir and appropriating the same shall have the right to collect from any riparian owner who shall divert such impounded water from said reservoir by pumping or otherwise a reasonable sum for the water so diverted, such sum to be determined by the Board of Water Engineers, based upon the benefits accruing to such riparian owner by reason of the construction of such dam, lake or reservoir and the impounding of such waters therein, provided, the owner of such dam, lake or reservoir, and the owner of riparian rights using such water can not agree upon the price to be paid therefor.

Sec. 48. All such corporations, whether chartered under the provisions of Chapter 2, Title 73, Revised Civil Statutes of Texas, 1911, or under the general corporation laws of the State of Texas, shall have full power and authority to make contracts for the sale of permanent water rights, to any person, corporation, association of persons, or irrigation district and to have the same secured by a lien on the lands or otherwise, and to lease, rent or otherwise dispose of the water controlled by such corporation, for such price as may be agreed upon, and in addition to the lien on the crops hereinafter provided for, such lease or rental contract may be secured by lien on land or otherwise; provided, that such water may be sold, leased, rented, or other-

wise disposed of to any such person, corporation, association of persons or irrigation district, or to the water tenants thereof, who have heretofore appropriated and complied with the provisions of Chapter 2, Title 73, Revised Civil Statutes of Texas, 1911, regardless of whether or not the water so furnished to lands adjacent or contiguous to the canals of such corporation, association of persons or irrigation district so furnishing water; provided, further, that any person, corporation, association of persons or irrigation district, shall be under no obligation during the period that water is so taken and utilized, to operate it or their pumping plant, headgate or intake, and failure to so operate its pumping plant, headgate or intake during such period, shall not be deemed an abandonment or waiver of his, their or its rights in such pumping plant, headgate, intake and source of supply.

Provided, that nothing herein contained shall affect or alter the existing relative rights of priority of the various appropriations whose supply is derived from the same source.

Sec. 49. Any person, association of persons, corporation, water improvement or irrigation district having in possession and control storm, flood or rain waters conserved or stored, under the provisions of this act, may enter into contract to supply same to any person, association of persons, corporation, water improvement or irrigation district having the right to acquire such use; provided, that the price and terms of such contract shall be just and reasonable and without discrimination and subject to the same revision and control as herein-after provided for other water rates and charges; provided, that if any person shall use such stored or conserved water without first entering into contract with the party having stored or conserved the same, such user shall pay for the use thereof such charge or rental as the board shall find to be just and reasonable, and subject to revision by the court, as herein provided for other water rates and charges.

Sec. 50. For the purpose of conveying and delivering storm, flood or rain water from the place of storage to the place of use, as provided in the preceding section, it shall be lawful for any person, association of persons, corporation, water improvement or irrigation district to use the banks and beds of any flowing natural stream within this State; under

and in accordance with such rules and regulations as may be prescribed by the Board of Water Engineers; and such board shall prescribe rules and regulations for such purpose. No person, association of persons, corporations, water improvement or irrigation district who has not acquired the right to the use of such conserved or stored waters, as provided in the last preceding section, shall take, use or divert same.

Sec. 51. Any person, association of persons, corporation, water improvement or irrigation district, or the agent, officer, employe or representative of any such person, association of persons, corporation, water improvement or irrigation district who shall wilfully interfere with the passage of, or take, divert or appropriate such conserved or stored water during the passage and delivery thereof, as provided in the last two preceding sections, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding one hundred dollars, or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment, and each and every day that such taking, diversion or appropriation may be made, shall constitute a separate offense.

Sec. 52. It shall be the duty of the district court, or the judge thereof, of any judicial district in or through which the conserved or stored waters described in the last three preceding sections may pass at the suit of any party having an interest therein, upon it being made to appear that any person, association of persons, corporation, water improvement or irrigation district, or any agent, officer, employe, or representative thereof, is interfering with, or threatening or about to interfere with the passage, or is taking, diverting, appropriating, or threatening, or about to take, divert, or appropriate, any conserved or stored waters, in violation of the provisions of the last three preceding sections; to issue such writ or writs of injunction, mandamus, or other process as may be proper or necessary to prevent such wrongful acts.

Sec. 53. Corporations may be formed and chartered, under the provisions of this act, and of the general corporation laws of the State of Texas, for the purpose of constructing, maintaining and operating canals, ditches, flumes, feeders, laterals, dams, reservoirs, lakes and wells, and of conserving, storing, conducting and transferring water to all

persons entitled to the use of the same for irrigation, mining, milling, manufacturing, the development of power, to cities and towns for waterworks, and for stock raising.

Sec. 54. All such corporations shall have full power and authority to make contracts for the sale of permanent water rights, and to have the same secured by liens on the land, or otherwise, and to lease, rent or otherwise dispose of the water controlled by such corporation, for such time as may be agreed upon, and in addition to the lien on the crops hereinafter provided for, the lease or rental contract may be secured by a lien on the land, or otherwise.

Provided, any contract for the sale of water rights shall be voidable unless the seller thereof has complied with the provisions of the statute relating to certified filings, or shall have obtained a permit from the Board of Water Engineers for the purposes and uses proposed to be made by the buyer of such water rights it is proposed to deliver.

Any person, association of persons, or corporation who sells or offers for sale any permanent water right, without having complied with the provisions of the statute relating to certified filings, or without having obtained a permit from the Board of Water Engineers for the uses and purposes purporting to be conveyed by such permanent water right, shall be deemed guilty of a felony, and upon conviction thereof, shall be fined in any sum not less than one hundred dollars nor more than one thousand dollars, or be confined in the county jail for any period of time not to exceed one year, or by both such fine and imprisonment.

Sec. 55. All persons who own or hold a possessory right or title to land adjoining or contiguous to any dam, reservoir, canal, ditch, flume or lateral, constructed and maintained under the provisions of this act, and who shall have secured a right to the use of water in said canal, ditch, flume, lateral, reservoir, dam or lake, shall be entitled to be supplied from such canal, ditch, flume, lateral, dam, reservoir or lake with water for irrigation of such land, and for mining, milling, manufacturing, development of power, and stock raising, in accordance with the terms of his or their contract.

Sec. 56. If the person, association of persons, or corporation owning or controlling such water, and the person who owns or holds a possessory right or title

to land adjoining or contiguous to any canal, ditch, flume or lateral, lake or reservoir, constructed or maintained under the provisions of this act, fail to agree upon a price for a permanent water right, or for the use or rental of the necessary water to irrigate the land of such person, or for mining, milling, manufacturing, the development of power, or stockraising; such person, association of persons, or corporation shall, nevertheless, if he, they or it, have or control any water not contracted to others, furnish the necessary water to such person to irrigate his lands or for mining, milling, manufacturing, the development of power or stockraising, at such prices as shall be reasonable and just, and without discrimination.

Sec. 57. In case of shortage of water from drouth, accident or other cause, all water to be distributed shall be divided among all customers pro rata, according to the amount he or they may be entitled to, to the end that all shall suffer alike, and preference be given to none; provided, that nothing in this section contained shall be held to preclude any such person, association of persons, or corporation owning or controlling such water from supplying the same to any person having a prior vested right thereto under the laws of this State.

Sec. 58. The permanent water right shall be an easement to the land and pass with the title thereto; the owner thereof shall be entitled to the use of the water upon the terms provided in his or their contract with such person, association of persons or corporation, or, in case no contract is entered into, then at just and reasonable prices, and without discrimination. Any instrument of writing conveying a permanent water right shall be admitted to record in the same manner as other instruments relating to the conveyance of land.

Sec. 59. If any person entitled to receive or use water from any canal, ditch, flume, lateral, dam, reservoir or lake, or from any conserved or stored supply, shall present to the board his petition in writing, showing that the person, association of persons, corporation, water improvement or irrigation district owning or controlling such water has a supply of water not contracted to others and available for his use, and fails or refuses to supply such water to him, or that the price or rental demanded therefor is not reasonable and just, or is discriminatory; or that the complainant is entitled to receive or use such water, and is willing and able to pay a just and

reasonable price therefor; and shall accompany such petition with a deposit of twenty-five dollars; it shall be the duty of the board to make a preliminary investigation of such complaint and determine whether there is probable ground therefor. If said board shall determine that no probable ground exists for such complaint, same shall be dismissed, and the deposit may, at the discretion of the board, be returned to the complainant or paid into the State Treasury.

Sec. 60. If the board shall determine that probable ground exists for such complaint, it shall enter an order setting said matter for hearing at a time and place to be named therein. The board may, in its discretion, require the complainant to make an additional deposit, or to enter into bond in an amount fixed by the board, conditioned for the payment of all costs of such proceeding, and which bond shall be approved by the board. Thereupon it shall be the duty of the secretary of the board to transmit a certified copy of the petition of complainant and of the order setting same for hearing, by registered mail, addressed to the party or parties against whom such complaint is made, and which notice shall be deposited in the mails at least twenty days before the date set for such hearing.

Sec. 61. At the time and place stated in such order, the board shall sit to hear such complaint. It may hear evidence orally or by affidavit in support of or against such complaint, and may hear arguments, and shall have power to adjourn such hearing from time to time and from place to place, and upon completion thereof shall render decision in writing.

Sec. 62. Appeal from such decision of the board may be taken within the time and in the manner as herein provided for other appeals from the decision of such board. The decision may be suspended by the filing of a supersedeas bond, in the same manner as now provided in other civil cases; provided, that the board shall fix the amount of the bond necessary to stay the execution of any such order.

Sec. 63. In any examination, investigation or proceeding authorized before the Board of Water Engineers, such board shall have power to issue subpoenas for the attendance of witnesses, under such rules as the board may prescribe. Each witness who shall appear before the board by order of the board, at the place outside of the county of his residence, shall receive for his attend-

ance, one dollar per day and three cents per mile traveled by nearest practicable route, in going to and returning from the place of meeting of said board, which shall be ordered paid by the Comptroller of Public Accounts upon the presentation of proper vouchers, sworn to by such witness and approved by the chairman of the board; provided, that no witness shall be entitled to any witness fees or mileage who is directly interested in such proceeding.

Sec. 64. In any examination or hearing held before the Board of Water Engineers, the board shall have authority to adjourn such hearing from time to time and from place to place. Each member of such board and the secretary thereof shall be authorized to administer oaths.

Sec. 65. Upon application of any person, the board shall furnish certified copies of any order or decision of record of such board, or of any paper, map or other document filed in the office of such board, and such certified copies, under the hand of the secretary and seal of the board, shall be admissible in evidence in any court, in the same manner and with like effect that the original would be entitled to.

Sec. 66. Every person, association of persons, corporation or irrigation district, conserving or supplying water for any of the purposes authorized by this act, shall make and publish reasonable rules and regulations relating to the method and manner of supply, use and distribution of water, and prescribing the time and manner of making application for the use of water and of payment therefor.

Sec. 67. Every conveyance of a ditch, canal or reservoir, or other irrigation work, or any interest therein, shall thereafter be executed and acknowledged in the same manner as the conveyance of real estate, and recorded in the deed records of the county or counties in which such ditch, canal or reservoir is situated, and any such conveyance which shall not be made in conformity with the provisions of this act, shall be null and void, as against subsequent purchasers thereof in good faith and for valuable consideration.

Sec. 68. Any person who shall wilfully open, close, change or interfere with any headgate or water box, without lawful authority, or who shall wilfully use water or conduct water in and through his ditch or upon his land, to which water he is not entitled, shall be deemed guilty

of a misdemeanor, and upon conviction thereof, shall be fined in any sum of not less than ten dollars, and not more than one thousand dollars, or by imprisonment in the county jail for a term not exceeding six months; provided, that the possession or use of water to which the person using or possessing same shall not be lawfully entitled shall be prima facie proof of the guilt of the person so using or in possession of same.

Sec. 69. Any person or persons who shall knowingly and wilfully cut, dig, break down, destroy, or injure, or open any gate, bank, embankment or side of any ditch, canal, reservoir, flume, tunnel or feeder or pump or machinery, building, structure, or other work, which is the property of another, or in which another owns an interest, or which is in the lawful possession or use of another or others, and which is used for the purpose of irrigation or milling or mining, or manufacturing, or for the development of power, or for domestic purposes, or for stockraising, with intent maliciously to injure any person, association or corporation, water improvement or irrigation district, or for the gain of any person, association, water improvement or corporation, so cutting, digging, breaking, injuring or opening any such work hereinbefore in this section named, or with the intent of taking or stealing or causing to run out or waste out of any such ditch, canal, or reservoir, feeder or flume, any water for his own profit, benefit or advantage, or to the injury of any person, association or corporation lawfully entitled to the use of such water, or to the use or management of such ditch, canal, tunnel, reservoir, feeder, flume, machine, structure or other irrigation work, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than ten dollars nor more than one thousand dollars, and may be punished by imprisonment in the county jail for any term not exceeding two years, or by both such fine and imprisonment.

Sec. 70. Any person or persons who shall deposit in any canal, lateral, reservoir or lake, used for any of the purposes enumerated in this act, the carcass of any dead animal, tin cans, discarded buckets or pails, garbage, ashes, bailing or barbed wire, earth, offal or refuse of any character, or any other article or articles which might pollute the water or obstruct the flow in any such canal or other similar structure, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less

than ten dollars, nor more than one hundred dollars, or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

Sec. 71. In all cases where irrigation ditches are owned or used by two or more persons, or by mutual or co-operative companies or corporations, and one or more of such persons, or shareholders, shall fail or neglect to do or to pay for his proportionate share of the work necessary for the proper maintenance and operation of such ditch, the owners or shareholders, desiring the performance of such work as is reasonably necessary to maintain and operate the ditch, may, after having given ten days' written notice to such joint owner, or owners, or shareholders who have failed to pay for or refused to perform their proportionate share of work necessary for the operation and maintenance of said ditch, proceed themselves to do such work, or cause the same to be done, and may recover therefor from such person so failing to perform or pay for his share of such work, in any court having jurisdiction over the amount, the reasonable expense or value of such work or labor so performed.

Sec. 72. All surplus water taken or diverted from any running stream and not used by the appropriator or disposed of to consumers for the purposes stated in this act, shall be conducted back to the stream from which taken or diverted, wherever such water may be returned by gravity flow, whenever reasonably practicable.

Sec. 73. Every person, association of persons, corporation, water improvement or irrigation district shall have power to cause an examination and survey for its proposed work to be made as may be necessary to the selection of the most advantageous reservoir sites and rights-of-way for any of the purposes authorized by this act, and for such purposes shall have the right to enter upon the lands or waters of any person.

Any member or employe of the board shall have authority to enter upon the lands and any or all waterways, either natural or artificial, for the purpose of making any investigation that would, in the judgment of the board, assist in the discharge of its duties.

Sec. 74. Every person, association of persons, corporation, water improvement or irrigation district formed for any of the purposes authorized by this act, are hereby granted the right-of-way, not to exceed one hundred feet in width, and

the necessary area for any dam and reservoir site over all public free school, university and asylum lands of this State, with the use of the rock, gravel and timber on such reservoir site and right-of-way for construction purposes, after paying such compensation as the Board of Engineers may determine, and may acquire such reservoir site and rights-of-way over private lands by contract.

Sec. 75. Any person, association of persons, corporation, irrigation or water improvement district, or any city or town, may also obtain the right-of-way over private lands and also the lands for pumping plants, intakes, headgates and storage reservoirs, by condemnation, by causing the damages for any private property appropriated by any such person, association of persons, corporation, water improvement or irrigation district, or city or town, to be assessed and paid for as provided in cases of railroads; provided, however, that when the power granted by this section is sought to be exercised by any person or association of persons, he or they shall first make application to the Board of Water Engineers for such condemnation, and said board shall make due investigation, and if it deems advisable shall give notice to the party owning the land sought to be condemned, and, after hearing, may institute such condemnation proceedings in the name of the State of Texas for the use and benefit of said persons and all others similarly situated, the costs of said suit and condemnation to be paid by the person or persons at whose instance the same is instituted in proportion to the benefits received by each as fixed by said board and to be paid before use is made of such condemned rights or property; and thereafter all persons seeking to take the benefits of such condemnation proceedings shall make application therefor to the Board of Water Engineers, and if such application is granted, shall pay such fees and charges as may be fixed by said board.

Sec. 76. All persons, associations of persons, corporations, water improvement and irrigation districts shall have the right to run along or across all roads and highways necessary in the construction of their work, and shall at all such crossings construct and maintain necessary bridges, culverts or siphons, and shall not impair the uses of such road or highway; provided, that if any public road or highway or public bridge shall be upon the ground necessary for the damsite, reservoir, or lake, it shall be

the duty of the commissioners court to change said road and to remove such bridge that the same may not interfere with the construction of the proposed dam, reservoir, or lake; provided, further, that the expense of making such change shall be paid by the person, association of persons, corporation, water improvement or irrigation district desiring to construct such dam site, lake or reservoir.

Sec. 77. Such person, association of persons, corporation or irrigation district shall have power to construct its ditch or canal across, along or upon any stream of water.

Sec. 78. When, in the examination of any irrigation or reclamation project, under the provisions of the Act of Congress, known as the Reclamation Act, approved June 17, 1902, it shall be found advisable or necessary to irrigate or reclaim lands within the limits of this State, the Secretary of the Department of the Interior is authorized to make all necessary examinations and surveys for, and to locate and construct irrigation or reclamation works within this State, and to perform any and all acts necessary to carry into effect the provisions, limitations, charges, terms and conditions of said Reclamation Act.

Sec. 79. The provisions of this act shall in all things apply to the construction, maintenance and operation of any irrigation works in this State, constructed under what is known as the Federal Reclamation Act, approved June 17, 1902, and the amendments thereto, in so far as the provisions of this act are not inconsistent with said Act of Congress, or the amendments thereto, or the regulations prescribed by the Secretary of the Department of the Interior in conformity to such Reclamation Act and the amendments thereto.

Sec. 80. It shall be unlawful for any person, association of persons, corporation, water improvement or irrigation district to take or divert any of the water of the ordinary flow, underflow, or storm flow of any stream, water course, or watershed, in this State into any other natural stream, water course or watershed, to the prejudice of any person or property situated within the watershed from which such water is proposed to be taken or diverted.

Sec. 81. Before any person, association of persons, corporation, water improvement or irrigation district shall take any water from any natural stream,

water course, or watershed in this State into any other watershed, such person, association of persons, corporation, water improvement or irrigation district shall make application to the Board of Water Engineers for a permit so to take or divert such waters, and no such permit shall be issued by the board until after full hearing before said board as to the rights to be affected thereby, and such hearing shall be held and notice thereof given at such time and such place, in such mode and manner as the board may prescribe; and from any decision of the board an appeal may be taken to the district court of the county in which such diversion is proposed to be made, in the mode and manner prescribed in this act for other appeals from the decision of the board.

Sec. 82. If any person, association of persons, corporation, water improvement or irrigation district, or the agent, attorney, employe, or representative of any such person, association of persons, corporation or irrigation district, shall take or divert any waters from one natural stream, water course, or watershed into any other watershed, contrary to the provisions of the last two preceding sections of this act, he, it or they shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in a sum not less than one hundred dollars nor more than five hundred dollars or by imprisonment in the county jail for any term not exceeding six months, and each day that such taking or diversion shall continue shall constitute a separate offense.

Sec. 83. Whenever any appropriator of water from any stream or other source of water supply located in whole or in part within this State, shall have obtained from the Board of Water Engineers a permit for the use of water, and shall have made use of the water under the terms of such permit; or whenever any such appropriator of water shall have filed an appropriation, in accordance with the laws of this State in force at the time of such filing, and shall have filed with the Board of Water Engineers a certified record of such appropriation, as required by Chapter 171 of the Acts of the Regular Session of the Thirty-third Legislature, and shall have made use of the water, under the terms of such filing or permit for a period of three years after this act shall take effect, he shall be deemed to have acquired a title to such appropriation by limita-

tion, as against any and all other claimants of water from the same stream, or other source of water supply, and as against any and all riparian owners upon said stream or other source of water supply.

Sec. 84. Unless the person, association of persons, corporation, water improvement or irrigation district owning or controlling any ditch, canal, reservoir, dam, or lake, shall keep the same securely fenced, no cause of action shall accrue in their favor against owners of live stock for any trespass thereon.

Sec. 85. Any corporation organized under the provisions of the General Laws of this State, or the provisions of this act, for any of the purposes stated in this act, shall have the power to acquire lands by voluntary donation or purchase in payment of stock or bonds or water rights; and to hold, improve, subdivide, and dispose of all such land and other property; and to borrow money for the construction, maintenance and operation of its canals, ditches, flumes, feeders, reservoirs, dams, lakes, wells and other property and franchises, to the extent of the value thereof, to secure the payment of any debts contracted for same; provided, no corporation shall issue stock or bonds except for money paid, labor done, or property actually received, and all fictitious increases in stock or indebtedness shall be void; provided further, all lands acquired by such corporation, except such as are used for the construction, maintenance or operation of such canals, ditches, laterals, feeders, reservoirs, dams, lakes, wells and other necessary works, shall be alienated within fifteen years from the date of acquiring said land or be subject to judicial forfeiture.

Sec. 86. Any corporation organized under the provisions of the General Laws of this State, or the provisions of this act, for any of the purposes stated in this act, may elect directors or trustees to hold office for a period of three years, and may provide for the election of one-third in number thereof each year.

Sec. 87. Every person, association of persons, corporation, water improvement or irrigation district, who has heretofore constructed, or may hereafter construct any ditch, canal, dam, lake or reservoir, for the purposes of irrigation, and who shall lease, rent, furnish or supply water to any person, association of persons, water improvement or corporation, for the purpose of irrigation, shall irre-

spective of contract, have a preference lien superior to every other lien upon the crop or crops raised upon the land thus irrigated.

Sec. 88. For the enforcement of the lien provided for in the preceding section, every such person, association of persons, corporation, water improvement or irrigation district shall be entitled to all the rights and remedies prescribed by Chapter 1, Title 80, of the Revised Civil Statutes of this State for the enforcement of the lien as between landlord and tenant.

Sec. 89. It shall be unlawful for any person, association of persons, corporation, water improvement or irrigation district owning, leasing or operating any ditch or canal or reservoir, or cultivating any lands abutting upon any reservoir, ditch, flume, canal, wasteway or lateral to permit Johnson grass or Russian thistle to go to seed upon such reservoir, ditch, flume, canal, wasteway or lateral within ten feet of the high water line of any such reservoir, ditch, flume, canal, wasteway or lateral, where the same crosses or lies upon land in the ownership or control of any such person, association of persons, corporation, water improvement or irrigation district, and anyone violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction therefor shall be fined in any sum not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment; provided, that this section shall not apply to Tom Green, Sterling, Irion, Schleicher and McCulloch counties.

Sec. 90. An artesian well is defined, for the purposes of this act, to be an artificial well in which, if properly cased, the waters will rise by natural pressure above the first impervious stratum below the surface of the ground.

Sec. 91. Any artesian well which is not tightly cased, capped and furnished with such mechanical appliances as will readily and effectively arrest and prevent the flow from such well, either over the surface of the ground about the well, or wasting from the well through the strata through which it passes, is hereby declared a public nuisance and subject to be abated as such upon the order of the board.

Sec. 92. Waste is defined, for the purposes of this act, in relation to artesian

wells, to be the causing, suffering or permitting the waters of an artesian well to run into any river, creek, or other natural water course or drain, superficial or underground channel, bayou, or into any sewer, street, road, highway, or upon the land of any other person than that of the owner of such well, or upon the public lands, or to run or percolate through the strata above that in which the water is found; unless it be used for the purposes and in the manner in which it may be lawfully used on the premises of the owner of such well; provided, that nothing in this section shall be construed to prevent the use of such water, if suitable, for proper irrigation of trees standing along or upon any street, road or highway, or for ornamental ponds or fountains, or the propagation of fish, or for the purposes authorized by this act.

Sec. 93. Whenever any person desires to drill a well upon his own land for domestic purposes or use for stock raising purposes or use, that comes within the definition of artesian well, as defined in this act, they shall have the right to do so without subjecting himself to the provisions of this act; provided, that said well shall be properly and securely cased, and whenever water is reached containing mineral or other substances injurious to vegetation or agriculture it shall be the duty of the owner of said well to securely cap same or to control its flow so as not to injure the land or any other person, or to fill it up so as to prevent the water of said well to rise above the first impervious stratum below the surface of the ground.

Sec. 94. Any person boring or causing to be bored any artesian well shall keep a complete and accurate record of the depth and thickness and character of the different strata penetrated, and when such well is completed, shall transmit, by registered mail, to the Board of Water Engineers a copy of such record. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than ten dollars nor more than one hundred dollars.

Sec. 95. Any person, association of persons or corporations owning or acquiring any possessory right to lands contiguous to any canal or irrigation system and who acquires the right to the use of water from such canal or irrigation system, by contract as in this act provided,

who wilfully and knowingly permits the excessive or wasteful use of water by any of the agents, servants or employes of said parties, or who wilfully and knowingly permits water to be wasted and not applied to a beneficial purpose, shall be deemed guilty of a misdemeanor and shall be punished as provided in Section 101, and such use or waste of water shall be declared a public nuisance and abated as such by the Board of Water Engineers; said Board of Water Engineers being empowered to direct the canal company or irrigation system to close the water gates of said persons and to keep them closed until such time as such unlawful use of water shall be corrected and the determination of this question shall be controlled entirely by the Board of Water Engineers, or its agents, servants and employes.

Sec. 96. Any person, association of persons, corporation, water improvement or irrigation district who owns or operates any works which make use of water for any of the purposes named in this act, and who permits unreasonable loss of water in the operation of such works, through the faulty design or negligent operation of such works, shall be deemed guilty of waste, and such works, or any part thereof may be declared a public nuisance and abated as such by the Board of Water Engineers.

Sec. 97. Any person, or the agent of any person, or the agent of any association or corporation, who shall operate or attempt to operate any works, or shall use any water under contract with any canal or irrigation system, that has been previously declared to be a public nuisance, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum, not more than one thousand dollars, or be confined in the county jail for a period of not to exceed one year, or both such fine and imprisonment.

Sec. 98. In any and all civil suits instituted by or under the direction of the Board of Water Engineers, suit may be prosecuted and instituted in any court of competent jurisdiction in the county or in any of the counties where the land lies.

Sec. 99. Action may be brought before the Board of Water Engineers by any person, association of persons, corporation, water improvement or irrigation district, who may be injured by waste, as herein defined, for the determination of questions arising under Sections 96 and 97 of this act, and the board shall

have the power to compel the attendance of witnesses, hear testimony relative thereto, and declare such works as may be determined guilty of waste a nuisance. Either party to this action shall have the right of appeal to the district court having jurisdiction in the locus of such offending works.

The party instituting proceedings under this section shall enter into approved bond, in such sum as the board may deem sufficient for the payment of all costs incident to such proceedings.

Sec. 100. Any person, association of persons, corporation, irrigation or water improvement district who owns and operates any system of works used for the irrigation of land, or for any of the purposes named in the law, shall keep such detailed record of daily operations as may be necessary, to determine the quantity of water taken or diverted each calendar year. If the use is for irrigation, there shall also be kept a record of the number of acres irrigated, as near as may be, without making actual surveys for the purpose and the character of crop or crops grown, and the yield per acre.

On or before the first day of March of each year every person, association of persons, corporation, water improvement or irrigation district who, during any part of the preceding calendar year, owned or operated any of the works described in this section, shall furnish, under oath, to the Board of Water Engineers, upon blanks to be furnished by the board, the information required to be kept for such preceding year, or part thereof, together with such other available information as the board may require, covering the uses made of water for any of the purposes named in the law.

Sec. 101. Whoever wilfully causes or knowingly permits waste as defined in this act, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in any sum not exceeding five hundred dollars, or shall be imprisoned in the county jail not more than ninety days, or by both such fine and imprisonment.

Sec. 102. Any person, association of persons, corporation, or water improvement or irrigation district, owning or operating any artesian well, as defined for the purposes of this act, at the time of its taking effect, shall, within one year thereafter, transmit to the Board of Water Engineers a sworn statement showing the result of such test, together with a declaration of the use or uses to

which the newly developed supply will be devoted, and the contemplated extent of such use.

Sec. 103. On or before the first day of March of each year every person, association of persons, corporation, water improvement or irrigation district who, during any part of the preceding calendar year, owned or operated any artesian well for any purpose other than that of domestic use, shall furnish, under oath, to the Board of Water Engineers, upon blanks to be furnished by the board, a detailed statement showing the quantity of water which has been derived from such well and the character of use to which same has been applied, together with the change in level of the water table of said well, and if used in irrigation, the acreage and yield of each crop, together with such additional data as the board may require.

Sec. 104. Nothing in the preceding sections, relating to artesian wells, shall be construed to apply to any oil well, and the status of such oil wells shall be unaffected by this act; provided, that abandoned oil wells shall be safeguarded as required in Section — of this act.

Sec. 105. Upon a petition to the Board of Water Engineers, signed by one or more water users upon any stream or other source of water supply, requesting the determination of the relative rights of the various claimants to the waters of such streams or other source of supply, it shall be the duty of the Board of Water Engineers, if upon investigation they find the facts and conditions are such as to justify, to make a determination of such rights, fixing a time for beginning the taking of testimony and the making of such examinations as will enable them to determine the rights of the various claimants. In case suit is brought in any court for the determination of rights to the use of water, the case may, in the discretion of the court, be transferred to the Board of Water Engineers for determination, as in this act provided.

Sec. 106. The board shall prepare a notice setting forth the date when the investigation will begin of the flow of the stream and of the ditches and pumps taking water therefrom, and a place and time certain when one or more members of the Board of Water Engineers will begin the taking of testimony as to the rights of the parties claiming water therefrom. Said notice shall be published in two issues of one or more newspapers having general circulation in the portion of the State in which said water

supply is situated, the last publication of said notice to be not less than thirty days prior to the beginning of taking testimony and for the measurement of the stream. The member or members of the board taking such testimony shall have the power to adjourn the taking of testimony from time to time and from place to place, to suit the convenience of those interested. Provided, that the hearing for the taking of testimony shall be held in each county through which such stream may flow, or in which a portion of such water supply is situated. Such hearing may be held by any one or more members of the Board of Water Engineers, and when taken before any one or more members, shall have the same force and effect as if the whole board were sitting at such hearing.

Sec. 107. It shall be the duty of the Board of Water Engineers to cause a notice to be sent by registered mail to each person, firm or corporation shown by the records of the board to the board to be a user or claimant to the use of water upon such stream or other source of water supply, which said notice shall set forth the date when a member or members of the board will sit within the county of such claimant's residence, or the county in which may be situated the land to which such water right may be appurtenant, and also setting forth the date when the examination of the stream or other source of water supply, and the ditches and pumps diverting water therefrom, will begin; and also the date when testimony will be taken as to rights to the water of said stream, or other source of water supply. Said notice shall be mailed at least thirty days prior to the date set therein for making examination of such stream, or other source of water supply, and the taking of testimony.

Sec. 108. Accompanying each such notice there shall, in addition, be enclosed with said notice a blank form on which said claimant or owner shall present in writing all the particulars necessary for the determination of his right to the waters of the stream or other source of water supply to which he lays claim, the said statement to include the following: The name and postoffice address of the claimant; the nature of the right or use on which the claim is based; the time of initiation of such right, or the commencement of such use, and, if distributing works are required, the date of beginning of construction; the date when completed; the date of beginning

and completion of enlargements; the dimensions of the ditch as originally constructed and as enlarged; the date when water was first used for irrigation or other beneficial purposes, and if used for irrigation, the amount of land reclaimed the first year, and the amount in subsequent use with the dates of reclamation and the amount and general location of the land such ditch or pump is intended to irrigate; the character of the soil, and the kind of crops cultivated, and such other facts as will show a compliance with the law in acquiring the right claimed.

Sec. 109. Each claimant or owner shall be required to certify to his statement under oath, and any member of the Board of Water Engineers, or the secretary of the board, is hereby authorized to administer such oaths, which shall be done without charge, as also shall be the furnishing of blank forms for said statement above provided for.

Sec. 110. Upon the date named in the notice above provided for, for the taking of testimony, a member or members of the Board of Water Engineers shall begin the taking of such testimony, and shall continue the same until completed. Provided, that the meetings may be adjourned from time to time and place to place, to suit the convenience of the parties. In case any member of the Board of Water Engineers is directly or indirectly interested in the water of any stream, or other source of water supply, upon which an investigation and hearing shall be undertaken, or is prevented by illness or otherwise, from taking part in such hearing, the taking of testimony, so far as relates to said stream, or other source of water supply, shall be carried on by another member or members of the board, and such member so interested shall be deemed to be disqualified, and shall not participate in the taking of testimony or the determination of such cause.

Sec. 111. Upon the completion of the taking of testimony, it shall be the duty of the board, or the member or members thereof taking such testimony, to give notice, by registered mail, to the various claimants, that at a time and place named in the notice, not less than ten days thereafter, all of said evidence shall be open to inspection of the various claimants or owners, and others, and said member or members of the board conducting such hearing, shall keep such evidence open to inspection at said places for such length of time as, in the opinion

of the board, shall be necessary to permit anyone interested to examine the same.

Sec. 112. Whenever in the judgment of the Board of Water Engineers it is deemed necessary or expedient to employ stenographers, hydrographers and other experts, in order to properly perform its duties as required by Sections 111 to 123, inclusive, the board shall have the authority to make such employment, at just and reasonable rates of compensation for such services and for their necessary traveling expenses, to be paid out of a fund created for that purpose, and the Legislature shall create such fund by appropriating a sufficient sum therefor out of money not otherwise appropriated for the use of the Board of Water Engineers.

Sec. 113. Any money expended in accordance with the provisions of the preceding section shall be charged as costs in the proceedings creating the necessity for its expenditure, and upon collection thereof by the proper authority shall be thereupon deposited with the State Treasurer, who shall place the same to the credit of the fund required by the preceding section.

Sec. 114. Should any person, corporation, water improvement and irrigation district, or association of persons owning irrigation works deriving water from, or claiming any interest in the stream or other source of water supply involving the determination, desire to contest any of the rights of the persons who have submitted evidence, as aforesaid, such persons, corporations or associations shall, within thirty days after the expiration of the period as fixed in the notice for public inspection, notify the Board of Water Engineers, or the member or members conducting such hearing, in writing, stating with reasonable certainty the grounds for his proposed contest, which statement shall be verified by the affidavit of the contestant or his agent or attorney, and the said board, or the member or members thereof conducting such hearing, shall notify the said contestant and the person, corporation, water improvement and irrigation district or association whose rights are contested, to appear before such board, or the member or members thereof conducting such hearing, at such convenient time and place as shall be designated in such notice.

Sec. 115. The time fixed for the hearing in the foregoing section provided for shall be not less than thirty nor more

than sixty days from the date the notice is issued to the person, corporation, water improvement and irrigation district, or association of persons whose rights are contested, which notice may be served and returns thereof may be made in the same manner as citations are served in civil actions in the district court. The Board of Water Engineers, or the member or members so conducting such hearing, shall have the right and power to issue subpoenas and compel the attendance of witnesses to testify upon such hearing, which shall be served in the same manner as subpoenas issued out of the district courts, and shall have the power to compel such witnesses so subpoenaed to testify, and to give evidence in said matter, and shall have the power to order the taking of depositions, and to issue, through their secretary, commissions to take depositions, in such manner as the Board of Water Engineers, by written rule, may provide, and said witnesses shall receive the same fees as in civil cases, the costs to be taxed as the Board of Water Engineers may direct.

Sec. 116. Upon the expiration of the period for which the evidence is kept open for inspection, the evidence in the original hearing before the Board of Water Engineers, or any member or members thereof, together with the evidence taken in all contests, if any, shall be transmitted to the office of the Board of Water Engineers, either by some member of the board, or the secretary of the board, in person, or by registered mail, and such evidence shall thereupon be filed as a public document in the office of the Board of Water Engineers.

Sec. 117. It shall be the duty of the Board of Water Engineers, either through one of its own members, or a qualified agent or employe, to proceed, at the time specified in the notice to the parties on such stream or other source of water supply, to make an examination of such stream or other source of water supply, and the works diverting water therefrom, said examination to include the measurements of the discharge of such stream, and of the carrying capacity of the various ditches and canals, an examination of the irrigated lands, and an approximate measurement of the lands irrigated or susceptible of irrigation from the various ditches and canals, and to take such other steps and gather such other data and information as may be essential to the proper understanding of the relative rights of the parties interested,

which said observation and measurement shall be reduced to writing and made a matter of record in the office of the board, and it shall be the duty of the board to make or cause to be made a map or plat, on a scale of not less than one inch to a mile, showing with substantial accuracy the course of said stream, the location of each ditch and canal diverting water therefrom, and the legal subdivisions of lands which have been irrigated or which are susceptible of irrigation from the ditches and canals already constructed.

Sec. 118. As soon as practicable after the compilation of said data and the filing of said evidence in the office of the Board of Water Engineers, the board shall make and cause to be entered of record in its office findings of fact and an order of determination, determining and establishing the several rights to the waters of said stream. And where the evidence taken at such a hearing as herein provided shall disclose existing water rights not represented at such a hearing, said rights shall be included in such findings of fact of said board and shall be likewise determined and established. A certified copy of such order of determination and findings shall be filed in every county in which such stream or any portion of a tributary is situated, or by which it flows, with the county clerk of said county.

Sec. 119. Upon the final determination of the rights to the waters of any stream or other source of water supply, it shall be the duty of the secretary of the Board of Water Engineers to issue to each person, association or corporation represented in such determination, upon payment of the fee required by law, a certificate to be signed by the chairman of the Board of Water Engineers, and attested under seal by the secretary of said board, setting forth the name and post-office address of the owner of the right, the date of the priority, extent and purpose of such right, and if such water be for irrigation purposes, a description of the legal subdivisions of the land to which the water is appurtenant. Such certificate shall be transmitted by the secretary in person or by registered mail to the county clerk of the county in which such right is located, and it shall be the duty of the county clerk, upon receipt of the statutory recording fee, to record the same in a book prepared and kept for that purpose, and the clerk shall upon receipt of the filing fee and the re-

cording of said certificate, immediately transmit the certificate to the owner.

Sec. 120. Any party or any number of parties, acting jointly, who may feel themselves aggrieved by the determination of the Board of Water Engineers, may take an appeal from the decision of the board to the district court. All persons joining in the appeal shall be joined as appellants, and all others, parties to the proceedings, shall be joined as appellees.

Sec. 121. The party or parties appealing shall, within sixty days of the determination by the Board of Water Engineers, which is appealed from, and the entry thereof in the records of the board, file in the district court to which the appeal is taken, a notice in writing stating that such party or parties appeal to such district court from the determination and order of the Board of Water Engineers, and upon the filing of such notice, the appeal shall be deemed to have been perfected. Provided, however, that the party or parties appealing shall, within the sixty days mentioned, enter into a bond, to be approved by the district clerk, to be made payable to all of the parties in said suit or proceeding, other than the parties appealing, which bond shall be in such an amount as the district clerk shall fix, conditioned that the parties taking such appeal will prosecute their appeal to effect, and pay all costs which may be adjudged against them, or either or any of them. In the event that more than one appeal shall be perfected, the district court shall have the right to order such appeals consolidated in such manner and upon such terms as the district court shall direct.

Sec. 122. The clerk of the district court, immediately upon the filing of said notice of appeal, and the approval of the bond mentioned in the preceding section, shall transmit to the secretary of the Board of Water Engineers a notice over the seal of the court, to the effect that said appeal has been perfected, which notice shall be entered of record by the secretary in the records of the board. The appellant or appellants shall cause a certified copy of said notice to be served on each of the appellees, the same to be served in the same manner provided for other process issuing out of the district court.

Sec. 123. The appellant or appellants shall, within ninety days after the appeal is perfected, as provided for, file in the office of the clerk of the district court

of the proper county, a certified transcript of the order of determination made by the Board of Water Engineers, which order is appealed from, together with a certified copy of all of the records of the Board of Water Engineers relating to such determination, and the originals or certified copies of all documentary evidence offered before the board, or prepared by the board, including the measurements of streams, tributaries and ditches, together with a petition setting out the cause of complaint of the party or parties appealing.

Sec. 124. When any appeal to the district court shall have been perfected, as provided in the aforesaid sections, a trial de novo shall be held in the district court, and the practice in the taking of testimony and the pleadings therein shall follow as nearly as may be the procedure provided by law in appeals in probate cases from the county to the district court, except as herein otherwise provided.

Sec. 125. All surveys, maps, plats and plans, together with stream measurements and scientific and other data collected or prepared by the board, or under its authority, and evidence taken before such board or member thereof, shall be admissible in evidence, under certificate of the secretary of the board, in all hearings before the board, and in any of the courts of this State.

Sec. 126. After final hearing, the court shall enter a decree affirming or modifying the order of the Board of Water Engineers, and may assess such costs and apportion the same, as it deems just. Appeals may be taken from the judgment of the district court to the Court of Civil Appeals and Supreme Court, in the same manner as in other cases.

Sec. 127. Pending final determination of the cause on appeal, the order of the Board of Water Engineers shall be in full force and effect, and the operation thereof shall not be suspended by the appeal.

Sec. 128. The determination of the Board of Water Engineers, as confirmed or modified on appeal, as provided in this act, shall be conclusive as to all prior rights, and upon the rights of all existing claimants, upon the stream or other body of water embraced in such determination.

Sec. 129. Whenever the Board of Water Engineers shall, as provided by

law, and after publication of notice, as hereinbefore provided, proceed to determine the right of the various claimants to the use of water upon any stream or other source of water supply, it shall be the duty of all claimants interested in such streams or other source of water supply, to appear and submit its or their respective claims or appropriations, at the time and in the manner required by law, and by said published notice, and any claimant who shall fail to appear in such proceedings and submit proof of his claim or appropriation, and who are required by this act to appear, shall after three years from the date of the entering of the order of said hearing be barred and estopped from subsequently asserting any rights theretofore acquired upon the stream or other source of water supply, embraced in such jurisdiction and shall be held to have forfeited all rights to appropriate or use the said waters theretofore claimed by him; provided, that nothing herein contained shall be held to in any way destroy, infringe or impair the right of any riparian owner to the use of the water from such stream for domestic purposes and use or for the use of stock, and it shall not be necessary for the claimant of this right to appear or assert his right to such use, but the same shall be respected.

Sec. 130. Each county in this State, now existing or hereafter organized, shall constitute a water district; provided, that no water commissioner shall be appointed for any such district until the commissioners court of such county shall, by resolution duly entered in the minutes of such court, call upon the Board of Water Engineers to appoint a water commissioner. At the same time that said county commissioners shall call upon the Board of Water Engineers for the appointment of a water commissioner for their district, such commissioners court shall, by resolution, fix the salary or compensation to be paid to such commissioner, and the salary and necessary traveling expenses of such water commissioner shall be paid by said county, in the mode and manner that may be provided by the commissioners court. As soon as the commissioners court shall have acted upon any such resolution, a certified copy of the order of said court shall be forthwith transmitted to the secretary of the Board of Water Engineers by the clerk of the county court.

Sec. 131. There shall be appointed by

the Board of Water Engineers, by a majority vote of such board, one water commissioner for each water district, after the commissioners court shall have acted, as in the last preceding section set forth, which commissioner shall hold his office for the term of two years, unless sooner removed by the Board of Water Engineers; provided, that any such water commissioner may, at any time, be removed by the Board of Water Engineers, by a majority vote thereof, and in case of such removal, the board shall specify in its order the reason for such removal. All vacancies in the office of water commissioner, created by removal, resignation or otherwise, shall be filled by the Board of Water Engineers. Before entering upon the discharge of the duties of his office, the water commissioner shall take the oath of office prescribed by the Constitution, and shall enter into bond with at least two personal sureties or with one surety or guaranty company authorized to do business in this State, payable to the Board of Water Engineers, to be approved by such board, in the penal sum of five thousand (\$5000) dollars, conditioned for the faithful performance of the duties.

Sec. 132. It shall be the duty of such water commissioner to divide the water of the streams, canals, ditches, or other sources of water supply of his district, among the several users and appropriators thereof, according to the prior right of each, respectively, as determined by the order of the Board of Water Engineers. He shall shut and fasten or cause to be shut and fastened, the headgates of all ditches, or of intakes of all pumps, and shall regulate or cause to be regulated the controlling works of reservoirs in times of scarcity, in accordance with the orders of the Board of Water Engineers, as may be necessary by reason of priority of right existing upon such stream or other source of water supply in his district. Such water commissioner shall have authority to regulate the distribution of water among the various users under partnership or other canal, ditch or reservoir, in accordance with the respective rights of the appropriators, as determined by the Board of Water Engineers. Whenever, in the pursuance of his duties, the water commissioner regulates the headgate of a ditch or the controlling works of a reservoir, or the intake of any pumping plant it shall be his duty to attach to said headgate, pump or controlling works a written no-

tice, dated and signed by them, setting forth the fact that said headgate, pump or controlling works has been properly regulated and is wholly under his control, and such notice shall be legal notice to all parties interested in the division and distribution of the waters of such stream, canal, ditch, pump or reservoir.

Sec. 133. Said water commissioner shall, as near as may be, divide, regulate and control the use of the water of all streams and other sources of water supply within his district under the orders of the Board of Water Engineers, by such closing or partial closing of the headgates as will prevent the waste of water, or its use in excess of the volume to which the appropriator is legally entitled, and any person who may be injured by the action of any water commissioner or his failure to act pursuant to this act, shall have the right to appeal to the Board of Water Engineers, and from the decision of the said Board of Water Engineers an appeal may be taken to the district court. Provided, however, that the decision of the water commissioner, or other authority appealed from, shall remain in full force and effect, pending such appeal and until reversed or altered by the authority to which such appeal shall be taken.

Sec. 134. The Board of Water Engineers shall have the power to authorize the water commissioner to employ an assistant or assistants to aid him in the discharge of the duties of his office, but such assistant shall have no authority except such as may be delegated to him by the water commissioner, and the water commissioner shall be in all things responsible for the actions of his assistant or assistants. Such assistants shall receive such compensation as may be allowed by the county commissioners court, and the time and method of paying the same shall be settled by the commissioners court in an order or resolution authorizing their appointment. Such assistant or assistants may be discharged by the water commissioner at any time for any reason satisfactory to himself.

Sec. 135. The provisions of this act shall apply to all streams or other sources of water supply lying upon or forming a part of the boundaries of this State.

Sec. 136. Nothing in this act contained shall be construed as a recognition of any riparian right in the owner of any lands the title to which shall have passed out of the State of Texas subsequent to the first day of July, A. D. 1895.

Sec. 137. Nothing in this act contained shall be held or construed to alter, affect, impair, increase, destroy, validate or invalidate any existing or vested right of property existing at the date when this act shall go into effect.

Sec. 138. If any section or provision of this act shall be held unconstitutional, it shall not be held to invalidate any other provision of this act.

Sec. 139. Chapter 171 of the General Laws of the Regular Session of the Thirty-third Legislature, and all other laws and parts of laws in conflict with the provisions of this act, are hereby repealed.

Sec. 140. The crowded condition of the calendar, and the near approach of the end of the session, together with the fact that the irrigation laws of this State are in an unsatisfactory condition and are retarding development, creates an imperative public necessity, requiring that the constitutional rule that bills be read upon three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

(2)

Amend House bill No. 237 by striking out all of the caption and inserting the following:

A bill to be entitled "An Act to provide a more adequate system of laws relating to irrigation and declaring the unappropriated waters of the State the property of the State; authorizing their appropriation, storage and diversion for beneficial uses; perpetuating the Board of Water Engineers and prescribing its powers, duties and compensation; defining water rights and prescribing the method of acquiring, perfecting and preserving same; requiring applications to be made to the Board of Water Engineers for permits to construct storage, diversion and distribution works; and prescribing the method thereof; limiting the right to the waters of the State to beneficial uses, and declaring forfeiture for abandonment of use; prescribing standards for the measurement of water; providing a method for the determination of water rights by the Board of Water Engineers; authorizing appeals from the decisions of the State Board of Water Engineers, and regulating the manner thereof; prescribing the method of serving notices on claimants and appropriators of water and declaring the effects of failure to observe the same; authorizing the issuance of certificates

of water rights and the recording thereof; fixing certain fees; creating the office of Water Commissioner and prescribing the duties and compensation thereof; authorizing the appointment of special assistants and prescribing their duties and compensation; dividing the State into water divisions and providing for water districts; prescribing the method for determining and recording titles to irrigation works, and establishing the period of limitation to quiet titles thereto; regulating partnership ditches; conferring the right of eminent domain in aid of construction of irrigation works; prohibiting the seeding of Johnson grass or Russian thistle on irrigation canals; prescribing penalties for violation of the provisions of this act; requiring the making of annual report to the Board of Water Engineers; requiring the control of flowing artesian wells; authorizing the chartering of corporations to construct and operate irrigation and other works; authorizing contracts for the supply and delivery of water, and creating liens to secure payment thereof; authorizing the acquisition of lands by irrigation companies, and requiring the alienation thereof; repealing all laws in conflict herewith, and declaring an emergency."

Mr. Hardey offered the following amendments to the (committee) amendment:

(1)

Amend committee amendment to H. B. No. 237, Sec. 3, page 2, line 31, by inserting between the word "except" and the word "condemnation" the word "after," and by striking out the word "structure," in line 35, and inserting the word "structures" in lieu thereof.

(2)

Amend Section 6, page 3, line 17, by inserting between the word "been" and the word "beneficially" the words "perfected, unless such water has been."

(3)

Amend Section 7, page 3, line 28, by striking out the word "continue" and inserting the word "continues" in lieu thereof, and by inserting in line 35, between the word "to" and the word "much" the word "so."

(4)

Amend Sec. 15, page 6, line 2, by inserting between the word "corporation" and the word "or" the words "water improvement."

(5)

Amend Sec. 16, page 7, line 25, by striking out the word "in" and inserting the word "on," and by striking out the word "thousand," in line 26, and inserting the word "hundred" in lieu thereof.

(6)

Amend Sec. 18, page 7, line 35, by striking out the word "have" and inserting the word "has," and by striking out the figures "40," in line 1, page 8, and inserting the figures "41" in lieu thereof.

(7)

Amend Sec. 19, page 8, line 6, by striking out the word "or" and inserting the word "of" in lieu thereof, and by inserting between the word "or" and the word "part," in line 8, the word "any."

(8)

Amend Sec. 20, page 8, line 22, by striking out all of line 22, after the word "until" and inserting the following: "approval of such plans is obtained," and by inserting between the word "of" and the word "certified," line 24, the word "a," and by striking out of the same line the word "copies" and inserting the word "copy" in lieu thereof.

(9)

Amend Sec. 22, page 9, line 13, by striking out the word "as" and inserting the word "are" in lieu thereof.

(10)

Amend Sec. 24, page 9, line 31, by inserting between the word "or" and the word "riparian" the word "vested."

(11)

Amend Sec. 41, page 14, line 15, by striking out the word "foot," where it first appears, and inserting the word "feet," and by striking out the word "or," in line 27, and inserting the word "of" in lieu thereof.

(12)

Amend Sec. 47, page 16, line 10, by striking out the word "many" and inserting the word "may," and by striking out the word "dams," in line 28, and inserting the word "dam" in lieu thereof.

(13)

Amend Sec. 48, page 17, line 16, by striking out the word "appropriations" and inserting the word "appropriators" in lieu thereof.

(14)

Amend Sec. 54, page 19, line 17, by striking out the word "felony" and inserting the word "misdemeanor" in lieu thereof.

(15)

Amend Sec. 69, page 23, line 3, by striking out from between the word "association" and the word "corporation" the word "or" and insert "," in lieu thereof.

(16)

Amend Sec. 75, page 24, line 37, by striking out the word "aid" and inserting the word "paid" in lieu thereof, and by inserting between the word "said" and the word "persons," in line 5, page 25, the words "person or."

(17)

Amend Sec. 76, page 25, line 14, by inserting between the word "corporation" and the word "water" the word "and," and by striking out the word "and," in line 15, and inserting the word "or" in lieu thereof, and by striking out the word "site," in line 27.

(18)

Amend Sec. 87, page 28, line 12, by striking out the word "reference" and inserting the word "preference" in lieu thereof.

(19)

Amend Sec. 93, page 29, line 24, by striking out the word "they" and inserting the word "he," and by striking out the word "or," in line 29, and inserting the word "of," and by striking out the words "in previous," in line 31, and inserting the word "impervious."

(20)

Amend Sec. 94, page 29, line 38, by striking out the word "therefor" and inserting the word "thereof" in lieu thereof.

(21)

Amend Sec. 95, page 29, line 40, by inserting between the word "or" and the word "corporations" the words "the agent of any," and by striking out the word "until," on page 30, line 13, and inserting the word "as" in lieu thereof.

(22)

Amend Sec. 104, page 32, line 15, by inserting the figures "91" between the word "section" and the word "of."

(23)

Amend Sec. 114, page 35, line 11, by striking out the word "and" and inserting the word "or" in lieu thereof.

(24)

Amend Sec. 115, page 35, line 32, by striking out the word "and" and inserting the word "or" in lieu thereof.

The amendments to the (committee) amendment were severally adopted.

Pending consideration of the bill, Mr. Spencer of Wise occupied in the chair temporarily.

Mr. Metcalfe offered the following amendment to Section 10 of the (committee) amendment:

Amend by striking out Section 10 of the bill and inserting the following: "The Act of the Thirty-third Legislature, Chapter 171; General Laws, approved April 9, 1913, is hereby amended and the Board of Water Engineers is discontinued. The purpose of this act shall hereafter be performed by one engineer, who shall be appointed by the Governor, by and with advice and consent of the Senate, and he shall hold office for a term of four (4) years, and until his successor is appointed and qualified; and shall be known as the State Water Engineer. Said Engineer shall be a graduate civil engineer, experienced in irrigation. He shall enter into bond to be approved by the Governor in the penal sum of ten thousand dollars (\$10,000) with not less than two personal sureties or with one surety or guaranty company authorized to do business in this State, conditioned for the faithful discharge of the duties of his office, and for the delivery to his successor or other officer appointed by the Governor to receive same all moneys, books and other property belonging to the State then in his hands or under his control, or with which he may be legally chargeable. The Governor shall have power to remove at any time for cause the State Water Engineer after he shall have been given a full, free and public hearing by the Governor. The Governor shall fill any vacancy by appointment with the advice and consent of the Senate."

(Mr. Mendell in the chair.)

On motion of Mr. Thomason of El Paso, the amendment to the (committee) amendment was tabled.

Mr. Metcalfe offered the following amendment to Section 12 of the (committee) amendment:

Amend by striking out in lines 21 and 22 in the printed bill the words "twenty-five hundred dollars," and inserting the words "two thousand dollars."

The amendment to the (committee) amendment was adopted.

Question—Shall the (committee) amendments be adopted?

BILLS SIGNED BY THE SPEAKER.

The Speaker signed, in the presence of the House, after giving due notice thereof, and their captions had been read severally, the following enrolled bills:

S. B. No. 234, "An Act creating and incorporating the San Antonio Independent School District and defining its boundaries; declaring an emergency."

S. B. No. 377, "An Act to amend Section 1 of Chapter 58 of the Special Laws of the Regular Session of the Thirtieth Legislature of the State of Texas; creating the Huntsville Independent School District in Walker county, Texas, and defining its boundaries, and declaring an emergency."

S. B. No. 389, "An Act to incorporate the Calvert Independent School District in Robertson county, Texas, etc., and declaring an emergency."

S. B. No. 34, "An Act providing a salary for district attorneys in counties having a population of more than 100,000 of \$500 and all fees, commissions and perquisites earned by such officer and exempting such district attorney from making accounting as required by Articles 3894 to 3897, inclusive, etc."

S. B. No. 375, "An Act to reorganize the Seventh, Fourteenth and Fortieth Judicial Districts and to create the Eighty-sixth Judicial District of the State of Texas, and providing for the appointment of the district judge for said Eighty-sixth Judicial District, and providing for holding the district courts and the terms thereof in the said Seventh, Fourteenth, Fortieth and Eighty-sixth Judicial Districts, and providing that all process; recognizances, bail bonds, appeal bonds, and jurors heretofore selected are valid and returnable to first session after this act takes effect and validating all judgments and decrees of the said courts, and providing for the continuation of any district court mentioned to the end of its term, and declaring an emergency."

MESSAGE FROM THE SENATE.

Senate Chamber,
Austin, Texas, March 9, 1917.

Hon. F. O. Fuller, Speaker of the House
of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has passed the following:

H. B. No. 238, A bill to be entitled "An Act to provide a more adequate system of laws relating to irrigation and declaring the unappropriated waters of the State the property of the State; authorizing their appropriation, storage and diversion for beneficial uses; perpetuating the Board of Water Engineers and prescribing its powers, duties and compensation; defining water rights and prescribing the method of acquiring, perfecting and preserving same; requiring application to be made to the Board of Water Engineers for permit to construct storage, diversion and distribution works, and prescribing the method thereof; limiting the right to the waters of the State to beneficial uses, and declaring forfeiture for abandonment of use; prescribing standards for the measurement of water; providing a method for the determination of water rights by the Board of Water Engineers; authorizing appeals from the decisions of the State Board of Water Engineers, and regulating the manner thereof; prescribing the method of serving notices on claimants and appropriators of water, and declaring the effects of failure to observe the same; authorizing the issuance of certificates of water rights and the recording thereof; fixing certain fees; creating the office of Water Commissioner and prescribing the duties and compensation thereof; authorizing the appointment of special assistants and prescribing their duties and compensation; dividing the State into water divisions and providing for water districts; prescribing the method for determining and recording title to irrigation works, and establishing the period of limitation to quiet titles thereto; regulating partnership ditches; conferring the right of eminent domain in aid of construction of irrigation works; prohibiting the seeding of Johnson grass or Russian thistle on irrigation canals; prescribing penalties for violation of the provisions of this act; requiring the making of annual report to the Board of Water Engineers; requiring the control of flowing artesian wells; authorizing the chartering of corporations to construct and operate irrigation and other works; authorizing contracts for

the supply and delivery of water, and creating liens to secure payment thereof; authorizing the acquisition of lands by irrigation companies, and requiring the alienation thereof; repealing all laws in conflict herewith, and declaring an emergency," with amendments.

Respectfully,
JOHN D. McCALL,
Secretary of the Senate.

MESSAGE FROM THE SENATE.

Senate Chamber,
Austin, Texas, March 9, 1917.

Hon. F. O. Fuller, Speaker of the House
of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate grants the request of the House for a Free Conference Committee on House bill No. 502, and has elected the following as members of said committee on the part of the Senate:

Senators Bee, Caldwell, Hopkins, Westbrook and King.

The Senate grants the request of the House for a Free Conference Committee on House bill No. 48, and has elected the following as members of said committee on the part of the Senate:

Senators Parr, Hudspeth, Clark, Buchanan of Scurry and Caldwell.

Respectfully,
G. H. BOYNTON,
Assistant Secretary of the Senate.

RECESS.

On motion of Mr. Reeves, the House, at 12 o'clock m., took recess to 2 o'clock p. m. today.

AFTERNOON SESSION.

The House met at 2 o'clock p. m., and was called to order by the Speaker.

HOUSE BILL NO. 237 ON ENGROSSMENT.

The House resumed consideration of pending business, same being House bill No. 237, providing a system of laws relating to irrigation, on its passage to engrossment, with (committee) amendments, offered by Mr. Canales, pending.

Mr. Mendell offered the following amendment to Section 39 of the (committee) amendment:

Amend House bill No. 237, page 13, by striking out Section 39.

Signed—Mendell, Scholl, Hartman, Metcalfe.

Mr. Canales moved to table the amendment to the (committee) amendment, and the motion to table prevailed.

(Mr. Mendell in the chair.)

Mr. Beasley offered the following amendment to Section 89 of the (committee) amendment:

Amend House bill No. 237, page 28, Section 89, line 36, by adding after the word "McCulloch" the word "San Saba."

The amendment to the (committee) amendment was adopted.

Mr. Metcalfe offered the following amendment to Section 100 of the (committee) amendment:

Page 31, strike out Section 100.

(Speaker in the chair.)

Mr. Hawkins moved to table the amendment to the (committee) amendment, and the motion to table was lost.

Question recurring on the amendment to the (committee) amendment, yeas and nays were demanded.

The amendment to the (committee) amendment was lost by the following vote:

Yeas—25.

Baker.	Metcalfe.
Beasley.	Parks.
Blackmon.	Peyton.
Burton of Rusk.	Reeves.
Cope.	Rogers.
Crudgington.	Sackett.
Davis of Dallas.	Sallas.
Dodd.	Taylor.
Laas.	Tilson.
Lacey.	Traylor.
Lanier.	Williford.
Lee.	Woods.
Mendell.	

Nays—70.

Bagby.	Hartman.
Beard of Harris.	Hawkins.
Beard of Milam.	Hudspeth.
Bedell.	Jones.
Bertram.	Lange.
Bland.	Low
Boner.	of Washington.
Brown.	McDowra.
Butler.	McFarland.
Cadenhead.	Martin.
Canales.	Meador.
Cox.	Miller of Austin.
Davis of Grimes.	Monday.
De Bogory.	Moore.
Denton.	Morris.
Dudley.	Murrell.
Dunnam.	Neeley.
Estes.	Neill.
Fisher.	Nichols.
Florer.	Nordhaus.
Haidusek.	O'Banion.
Hardey.	

O'Brien.	Templeton.
Osborne.	Terrell.
Peddy.	Thomas.
Pillow.	Thompson
Poage.	of Hunt.
Richards.	Thompson
Russell.	of Red River.
Schlesinger.	Tillotson.
Scholl.	Tinner.
Seawright.	Tschoepe.
Smith of Hopkins.	Valentine.
Spencer of Nolan.	Walker.
Spradley.	White.
Stewart.	Wilson.
Swope.	Yantis.

Present—Not Voting.

Mr. Speaker.	Lowe
Beason.	of McMullen.
Laney.	McComb.
Lindemann.	Veatch.

Absent.

Blackburn.	Roemer.
Blalock.	Sentell.
Cates.	Schlosshan.
Clark.	Sholars.
Fairchild.	Smith of Bastrop.
Greenwood.	Smith of Scurry.
Harris.	Spencer of Wise.
Hill.	Thomason
Holland.	of Nacogdoches.
Johnson.	Williams
McCoy.	of McLennan.
Raiden.	Woodul.
Robertson.	

Absent—Excused.

Bell.	McMillin.
Bledsoe.	Miller of Dallas.
Bryan.	Pope.
Bryant.	Strayhorn.
Burton of Tarrant.	Thomason
Carlock.	of El Paso.
Davis	Upchurch.
of Van Zandt.	Wahrmond.
Fitzpatrick.	Williams
Fly.	of Brazoria.

Call of the House Ordered.

Mr. Cope moved a call of the House for the purpose of maintaining a quorum pending consideration of the bill, and the call was duly seconded.

The Speaker then directed the Doorkeeper to close the main entrance to the Hall and instructed the Sergeant-at-Arms to lock all other doors leading from the Hall, and stated that no member would be permitted to leave the Hall without written permission from the Speaker.

Mr. Metcalfe offered the following amendment to Section 128 of the (committee) amendment:

Strike out Section 128.

On motion of Mr. Canales, the amendment to the (committee) amendment was tabled.

Mr. Metcalfe offered the following amendment to the (committee) amendment:

Amend by striking out Section 10 of the bill and inserting the following: "The Act of the Thirty-third Legislature, Chapter 171, General Laws, approved April 9, 1913, is hereby amended and the Board of Water Engineers is discontinued. The purpose of this act shall hereafter be performed by one engineer, who shall be appointed by the Governor, by and with advice and consent of the Senate, and he shall hold office for a term of four (4) years, and until his successor is appointed and qualified; and shall be known as the State Water Engineer. Said engineer shall be a graduate, civil engineer, experienced in irrigation. He shall enter into bond to be approved by the Governor in the penal sum of ten thousand dollars (\$10,000.00), with not less than two personal sureties or with one surety or guaranty company, authorized to do business in this State, conditioned for the faithful discharge of the duties of his office, and for the delivery to his successor or other officer appointed by the Governor to receive same all moneys, books and other property belonging to the State then in his hands or under his control, or with which he may be legally chargeable. The Governor shall have power to remove at any time for cause the State Water Engineer, after he shall have been given a full, free and public hearing by the Governor. The Governor shall fill any vacancy by appointment, with the advice and consent of the Senate."

Mr. Dudley moved the previous question on the pending amendments and the engrossment of the bill, and the main question was ordered.

Mr. Dudley raised a point of order on further consideration of the amendment to the (committee) amendment at this time, on the ground that an identical amendment has already been defeated by the House.

The Speaker sustained the point of order.

Mr. Woods, by unanimous consent, offered the following amendment to the (committee) amendment:

Amend H. B. No. 237 by adding to Section 41 the following:

"The fees and charges collected in accordance with the provisions of this act shall be immediately deposited in the

State Treasury to the credit of the General Revenue and full and detailed verified monthly and annual reports of all such receipts, as well as of the expenditures of the said board, shall be filed with the Comptroller of Public Accounts."

The amendment to the (committee) amendment was adopted.

Mr. Dodd, by unanimous consent, offered the following amendment to the (committee) amendment:

Amend House bill No. 237 by striking out the words "thirty-six hundred" in line 14, page 5, Section 11, and inserting "three thousand."

Yeas and nays were demanded, and the amendment to the (committee) amendment was lost by the following vote:

Yeas—51.

Baker.	Murrell.
Beard of Milam.	O'Brien.
Beasley.	Osborne.
Bedell.	Peyton.
Bertram.	Raiden.
Blackmon.	Reeves.
Blalock.	Rogers.
Boner.	Sackett.
Burton of Rusk.	Sentell.
Butler.	Seawright.
Cadenhead.	Smith of Hopkins.
Cope.	Smith of Scurry.
Crudgington.	Stewart.
Davis of Dallas.	Taylor.
Dodd.	Templeton.
Dunnam.	Thomas.
Estes.	Thompson
Florer.	of Red River.
Lacey.	Tilson.
Lanier.	Tinner.
Lee.	Trayler.
Lindemann.	Tschoepe.
McComb.	Veatch.
McDowra.	Williford.
Metcalfe.	Wilson.
Moore.	Woods.

Nays—53.

Bagby.	Hudspeth.
Beason.	Jones.
Blackburn.	Laas.
Bland.	Laney.
Brown.	Lange.
Canales.	Low
Cates.	of Washington.
Cox.	McFarland.
De Bogory.	Meador.
Dudley.	Mendell.
Fairchild.	Miller of Austin.
Fisher.	Monday.
Haidusek.	Morris.
Hardey.	Neeley.
Hartman.	Neill.
Hawkins.	Nichols.
Holland.	

Nordhaus.	Swope.
Parks.	Terrell.
Pillow.	Thompson
Poage.	of Hunt.
Richards.	Tillotson.
Robertson.	Valentine.
Roemer.	Walker.
Sallas.	White.
Schlesinger.	Williams
Scholl.	of McLennan.
Spencer of Nolan.	Yantis.
Spradley.	

Present—Not Voting.

Davis of Grimes.	Russell.
Lowe	
of McMullen.	

Absent.

Beard of Harris.	O'Banion.
Clark.	Peddy.
Denton.	Schlosshan.
Greenwood.	Sholars.
Harris.	Smith of Bastrop.
Hill.	Spencer of Wise.
Johnson.	Thomason
McCoy.	of Nacogdoches.
Martin.	Woodul.

Absent—Excused.

Bell.	McMillin.
Bledsoe.	Miller of Dallas.
Bryan.	Pope.
Bryant.	Strayhorn.
Burton of Tarrant.	Thomason
Carlock.	of El Paso.
Davis	Upchurch.
of Van Zandt.	Wahrmund.
Fitzpatrick.	Williams
Fly.	of Brazoria.

Question next recurring on the (committee) amendments as amended, they were adopted.

House bill No. 237 was then passed to engrossment.

Mr. Canales moved to reconsider the vote by which the bill was passed to engrossment and to table the motion to reconsider.

The motion to table prevailed.

HOUSE BILL NO. 237 ON THIRD READING.

Mr. Canales moved that the constitutional rule requiring bills to be read on three several days be suspended, and that House bill No. 237 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—92.

Bagby.	Moore.
Beard of Milam.	Morris.
Beason.	Murrell.
Bedell.	Neeley.
Bertram.	Neill.
Blackburn.	Nichols.
Blackmon.	Nordhaus.
Blalock.	O'Banion.
Bland.	O'Brien.
Boner.	Osborne.
Brown.	Parks.
Butler.	Poage.
Cadenhead.	Raiden.
Canales.	Richards.
Cates.	Robertson.
Cox.	Roemer.
Davis of Dallas.	Russell.
Davis of Grimes.	Sallas.
De Bogory.	Sentell.
Denton.	Schlesinger.
Dodd.	Schlosshan.
Dudley.	Scholl.
Dunnam.	Seawright.
Fairchild.	Smith of Hopkins.
Fisher.	Smith of Scurry.
Florer.	Spencer of Nolan.
Haiduselk.	Spradley.
Hardey.	Stewart.
Harris.	Swope.
Hartman.	Templeton.
Hawkins.	Terrell.
Holland.	Thomas.
Hudspeth.	Thompson
Jones.	of Hunt.
Jas.	Thompson
Lacey.	of Red River.
Laney.	Tillotson.
Lange.	Tilson.
Lee.	Tinner.
Lindemann.	Tschoepe.
Lowe	Valentine.
of McMullen.	Veatch.
McDowra.	Walker.
McFarland.	White.
Meador.	Williams
Mendell.	of McLennan.
Miller of Austin.	Williford.
Monday.	Yantis.

Nays—14.

Baker.	Reeves.
Beasley.	Rogers.
Cope.	Sackett.
Crudgington.	Taylor.
Estes.	Trayler.
Metcalfe.	Wilson.
Peyton.	Woods.

Present—Not Voting.

McGomb.

Absent.

Beard of Harris.	Clark.
Burton of Rusk.	Fitzpatrick.

Greenwood.	Pillow.
Hill.	Sholars.
Johnson.	Smith of Bastrop.
Low	Spencer of Wise.
of Washington.	Thomason
McCoy.	of Nacogdoches.
Martin.	Upchurch.
Peddy.	Woodul.

Absent—Excused.

Bell.	McMillin.
Bledsoe.	Miller of Dallas.
Bryan.	Pope.
Bryant.	Strayhorn.
Burton of Tarrant.	Thomason
Carlock.	of El Paso.
Davis	Wahrmund.
of Van Zandt.	Williams
Fly.	of Brazoria.
Lanier.	

The Speaker then laid House bill No. 237 before the House on its third reading and final passage,

The bill was read third time.

Mr. Metcalfe offered the following amendment to the bill:

Amend House bill No. 237 by striking out Section 10 of the bill and inserting the following: "The Act of the Thirty-third Legislature, Chapter 171, General Laws, approved April 9, 1913, is hereby amended, and the Board of the Water Engineers is discontinued. The purpose of this act shall hereafter be performed by one engineer, who shall be appointed by the Governor by and with advice and consent of the Senate, and he shall hold office for a term of four years and until his successor is appointed and qualified; and shall be known as the State Water Engineer. Said Engineer shall be a graduate civil engineer, experienced in irrigation. He shall enter into bond to be approved by the Governor in the penal sum of ten thousand dollars, with not less than two personal sureties, or with one surety or guaranty company authorized to do business in this State, conditioned for the faithful discharge of the duties of his office; and for the delivery to his successor or other officer appointed by the Governor to receive same all moneys, books and other property belonging to the State then in his hands or under his control, or with which he may be legally chargeable. The Governor shall have power to remove at any time for cause the State Water Engineer after he shall have been given a full, free and public hearing by the Governor. The Governor shall fill any vacancy by

appointment with the advice and consent of the Senate."

Mr. Holland moved the previous question on the amendment and the passage of the bill, and the main question was ordered.

Question first recurring on the amendment, yeas and nays were demanded.

The amendment was lost by the following vote:

Yeas—46.

Baker.	Poage.
Beard of Milam.	Raiden.
Beasley.	Reeves.
Bedell.	Rogers.
Bertram.	Russell.
Blalock.	Sackett.
Burton of Rusk.	Sentell.
Cadenhead.	Schlosshan.
Cope.	Seawright.
Crudgington.	Smith of Hopkins.
Davis of Dallas.	Stewart.
Dodd.	Taylor.
Jones.	Templeton.
Lacey.	Thomas.
Lanier.	Thompson
Lee.	of Hunt.
Lindemann.	Tilson.
McComb.	Trayler.
Metcalfe.	Veatch.
Moore.	Williams
Murrell.	of McLennan.
Neill.	Williford.
O'Banion.	Wilson.
Peyton.	Woods.

Nays—55.

Bagby.	Meador.
Beason.	Mendell.
Blackburn.	Miller of Austin.
Bland.	Monday.
Boner.	Morris.
Brown.	Neeley.
Butler.	Nichols.
Canales.	Nordhaus.
Cox.	O'Brien.
Davis of Grimes.	Osborne.
De Bogory.	Parks.
Dudley.	Pillow.
Dunnam.	Richards.
Fairchild.	Robertson.
Fisher.	Roemer.
Haidusek.	Schlesinger.
Hardey.	Scholl.
Hartman.	Spencer of Nolan.
Hawkins.	Spradley.
Holland.	Swope.
Hudspeth.	Terrell.
Laas.	Thompson
Laney.	of Red River.
Lowe	Tillotson.
of McMullen.	Tschoepe.
Low	Valentine.
of Washington.	Walker.
McDowra.	White.
McFarland.	Yantis.

Absent.

Beard of Harris.	McCoy.
Blackmon.	Martin.
Cates.	Peddy.
Clark.	Sallas.
Denton.	Sholars.
Estes.	Smith of Bastrop.
Florer.	Smith of Scurry.
Greenwood.	Spencer of Wise.
Harris.	Thomason
Hill.	of Nacogdoches.
Johnson.	Tinner.
Lange.	Woodul.

Absent—Excused.

Bell.	McMillin.
Bledsoe.	Miller of Dallas.
Bryan.	Pope.
Bryant.	Strayhorn.
Burton of Tarrant.	Thomason
Carlock.	of El Paso.
Davis	Upchurch.
of Van Zandt.	Wahrmund.
Fitzpatrick.	Williams
Fly.	of Brazoria.

House bill No. 237 was then passed.
Mr. Canales moved to reconsider the vote by which the bill was passed, and to table the motion to reconsider.

The motion to table prevailed.

BILLS ORDERED NOT PRINTED.

On motion of Mr. Templeton, it was ordered that Senate bill No. 471 be not printed.

On motion of Mr. Lanier, it was ordered that House bill No. 829 be not printed.

MESSAGE FROM THE SENATE.

Senate Chamber,
Austin, Texas, March 9, 1917.

Hon. F. O. Fuller, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate concurs in House amendments to Senate bill No. 174.

The Senate has passed the following bills:

S. B. No. 287, A bill to be entitled "An Act to repeal Chapter 104 of the General Laws of the Regular Session of the Thirty-third Legislature of the State of Texas, approved April 2, 1913, the same being 'An Act to amend Article 4893, Title 71, Chapter 9, of the Revised Civil Statutes of 1911, prohibiting the use of coinsurance clauses in any policy or contract of insurance covering property in this State, and amending said Article 4893, providing that co-insurance clauses may be used in any policy or contract of insurance covering

property in this State at the option of the assured, and declaring an emergency."

S. B. No. 267, A bill to be entitled "An Act to define a delinquent child and to regulate the treatment and control of same; providing for commitment of the delinquent and incorrigible juvenile in the State institution to be hereafter known as the State Training School for Boys, located at Gatesville, Coryell county, Texas, and declaring an emergency."

The Senate concurs in House amendments to Senate bill No. 352.

Respectfully,

G. H. BOYNTON,
Assistant Secretary of the Senate.

SPECIAL ORDER SET.

On motion of Mr. Tillotson, House Joint Resolution No. 30 was set as a special order for 10 o'clock a. m. next Tuesday, March 13.

MESSAGE FROM THE SENATE.

Senate Chamber,
Austin, Texas, March 9, 1917.

Hon. F. O. Fuller, Speaker of the House of Representatives.

Sir: I am instructed by the Senate to inform the House that the Senate concurs in House amendments to Senate bill No. 237.

The Senate has passed:

H. B. No. 33, A bill to be entitled "An Act creating for Dallas county an additional county court at law; providing a name therefor; prescribing the jurisdiction thereof; providing for the election and qualification of the judge thereof; fixing the judge's compensation; specifying the terms of said court; prescribing the fees to be collected by the judge thereof; prescribing the powers and duties of the judge thereof, etc."

Respectfully,

G. H. BOYNTON,
Assistant Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
ON SENATE BILL NO. 11.

Mr. Boner called up, for consideration at this time, the report of the conference committee on Senate bill No. 11, the congressional redistricting bill.

Question—Shall the report be adopted?

Mr. Harris moved to postpone further consideration of the report until 10 o'clock a. m. next Monday.

The motion to postpone was lost.

Mr. Bledsoe moved that the House do not adopt the report and that another conference committee on the part of the House be appointed to confer further

with the Senate conferees for the purpose of agreeing on another report.

Mr. Yantis moved the previous question on the motion of Mr. Bledsoe and the report, and the main question was ordered.

Question first recurring on the motion of Mr. Bledsoe, yeas and nays were demanded.

The motion was lost by the following vote:

Yeas—33.

Bagby.	Pope.
Beard of Milam.	Reeves.
Blackmon.	Richards.
Blalock.	Russell.
Bledsoe.	Seawright.
Brown.	Spencer of Nolan.
Canales.	Swope.
Cope.	Templeton.
Crudgington.	Terrell.
Denton.	Thomason
Dodd.	of El Paso.
Dudley.	Thompson
Estes.	of Red River.
Harris.	Tillotson.
Lacey.	Tilson.
Mendell.	Williford.
Nichols.	Woods.
O'Banion.	

Nays—87.

Baker.	Lanier.
Beard of Harris.	Lee.
Beasley.	Lindemann.
Beason.	Lowe
Bedell.	of McMullen.
Bertram.	Low
Blackburn.	of Washington.
Bland.	McComb.
Boner.	McDowra.
Bryant.	McFarland.
Burton of Rusk.	Martin.
Butler.	Meador.
Cadenhead.	Metcalf.
Carlock.	Miller of Austin.
Cates.	Monday.
Cox.	Moore.
Davis of Dallas.	Murrell.
Davis of Grimes.	Neeley.
De Bogory.	Neill.
Dunnam.	Nordhaus.
Fairchild.	O'Brien.
Fisher.	Osborne.
Florer.	Parks.
Greenwood.	Peddy.
Haidusek.	Peyton.
Hardey.	Pillow.
Hartman.	Poage.
Hawkins.	Raiden.
Holland.	Robertson.
Hudspeth.	Roemer.
Jones.	Rogers.
Laas.	Sackett.
Laney.	Sallas.
Lange.	Schlesinger.

Schlosshan.	Tinner.
Scholl.	Trayler.
Smith of Bastrop.	Tschoepe.
Smith of Hopkins.	Valentine.
Smith of Scurry.	Veatch.
Spencer of Wise.	Walker.
Spradley.	White.
Stewart.	Williams
Taylor.	of McLennan.
Thomas.	Wilson.
Thompson	Yantis.
of Hunt.	

Absent.

Clark.	Sentell.
Hill.	Sholars.
Johnson.	Thomason
McCoy.	of Nacogdoches.
Morris.	Woodul.

Absent—Excused.

Bell.	McMillin.
Bryan.	Miller of Dallas.
Burton of Tarrant.	Strayhorn.
Davis	Upchurch.
of Van Zandt.	Wahrmund.
Fitzpatrick.	Williams
Fly.	of Brazoria.

Question recurring on the report, yeas and nays were demanded.

The report was adopted by the following vote:

Yeas—99.

Bagby.	Hartman.
Baker.	Hawkins.
Beard of Harris.	Holland.
Beasley.	Hudspeth.
Beason.	Jones.
Bedell.	Laas.
Bertram.	Laney.
Blackburn.	Lange.
Blalock.	Lanier.
Bland.	Lee.
Boner.	Lindemann.
Bryant.	Lowe
Burton of Rusk.	of McMullen.
Butler.	Low
Cadenhead.	of Washington.
Canales.	McComb.
Carlock.	McDowra.
Cates.	McFarland.
Cope.	Martin.
Cox.	Meador.
Davis of Dallas.	Mendell.
Davis of Grimes.	Metcalf.
De Bogory.	Miller of Austin.
Denton.	Monday.
Dodd.	Moore.
Dunnam.	Murrell.
Fairchild.	Neeley.
Fisher.	Neill.
Florer.	Nichols.
Greenwood.	Nordhaus.
Haidusek.	O'Banion.
Hardey.	O'Brien.

Osborne.	Spradley.
Parks.	Stewart.
Peddy.	Swope.
Pillow.	Taylor.
Poage.	Terrell.
Raiden.	Thomas.
Reeves.	Thompson
Robertson.	of Hunt.
Roemer.	Thompson
Rogers.	of Red River.
Sackett.	Tinner.
Sallas.	Trayler.
Schlesinger.	Tschoepe.
Schlosshan.	Valentine.
Scholl.	Veatch.
Seawright.	Walker.
Smith of Bastrop.	Williams
Smith of Hopkins.	of McLennan.
Smith of Scurry.	Wilson.
Spencer of Wise.	Yantis.

Nays—17.

Beard of Milam.	Richards.
Blackmon.	Russell.
Brown.	Spencer of Nolan.
Crudgington.	Templeton.
Dudley.	Tillotson.
Estes.	Tilson.
Harris.	Williford.
Lacey.	Woods.
Pope.	

Absent.

Bryan.	Peyton.
Burton of Tarrant.	Sentell.
Clark.	Sholars.
Fitzpatrick.	Thomason
Hill.	of Nacogdoches.
Johnson.	Upchurch.
McCoy.	White.
Morris.	Woodul.

Absent—Excused.

Bell.	Strayhorn.
Bledsoe.	Thomason
Davis	of El Paso.
of Van Zandt.	Wahrmund.
Fly.	Williams
McMillin.	of Brazoria.
Miller of Dallas.	

Reason for Vote.

I vote "nay" on adopting the conference committee report because the three counties of Leon, Madison and Hill were added to the Sixth District by the conference committee, making said district much greater in population than the Dallas or Fifth District, from which Hill county was taken, and believing that Hill county should not have been taken from the Fifth District and placed in the Sixth.

BEARD of Milam.

Mr. Boner moved to reconsider the vote by which the report was adopted, and to table the motion to reconsider.

The motion to table prevailed.

HOUSE JOINT RESOLUTION NO. 31
ON FINAL PASSAGE.

Mr. De Bogory called up, for consideration at this time, the motion to reconsider the vote by which H. J. R. No. 31 failed to pass on Friday, March 2, which motion was on that day duly spread upon the Journal, due notice having been given that the motion would be called up for consideration at this time.

Question recurring on the motion to reconsider, it prevailed.

The Speaker then laid before the House, on its final passage,

H. J. R. No. 31, Proposing to amend the Constitution of the State of Texas by amending Article 5 thereof, pertaining to the judicial department of the State of Texas, fixing the date for the election to be held hereunder and making an appropriation to pay expenses of said election.

Mr. De Bogory offered the following amendment to the resolution:

Amend H. J. R. No. 31 by striking out all of it after the words "Be it resolved by the Legislature of the State of Texas" down to Section 12, and insert after the words, "Be it resolved by the Legislature of the State of Texas," the following: Strike out of Section 1, Article 5, of the present Constitution the words "in courts of civil appeals," by substituting for Section 2, Article 5, of the present Constitution the following:

"Section 2. The Supreme Court shall consist of a chief justice and fifteen associate justices, which number may be increased or diminished by law. The court shall be divided into divisions as in the opinion of the court is deemed best, each of which divisions shall constitute a working body; the majority of the members of each division shall constitute a quorum, and to each division shall be assigned by the chief justice the particular labors each of said divisions shall perform. The decision of a division shall be deemed a decision of the court, and judgment shall be based thereon, unless the matter is brought before the court en banc and revised thereby under the rules prescribed by the court en banc. The decision of a majority of the court en banc shall constitute the judgment of said court.

"No person shall be eligible to the office of chief justice or associate justice of

the Supreme Court unless he be at the time of his election a citizen of the United States and of this State, and unless he shall have attained the age of 35 years and shall have been a practicing lawyer or such lawyer and a judge of a court of record of this State at least ten years. Said chief justice and associate justices shall be elected by the qualified voters of the State, and hold their office eight years, or until their successors are elected and qualified, and shall each receive an annual salary of five thousand dollars until otherwise provided by law. In case of a vacancy in the office of chief justice or associate justice of the Supreme Court the Governor shall fill the vacancy by appointment until the next general election. The members of the first court shall draw lots for the particular term each is to fill whether for two, four, six or eight years. Thereafter one-fourth of the membership shall be elected every two years as their respective terms of office expire. The members of the present Supreme Court shall constitute a part of the new Supreme Court and shall hold office until their respective terms of office expire."

By substituting for Section 3, Article 5, of the present Constitution, the following:

"The Supreme Court shall have appellate jurisdiction only, except as herein specified, which shall be co-extensive with the limits of the State. The Supreme Court and the justices thereof shall have power to issue writs of habeas corpus as may be prescribed by law; and, under such regulations as is now or may hereafter be prescribed by law, the said courts and the justices thereof may issue writs of mandamus, procedendo, certiorari, and such other writs as may be necessary to enforce its jurisdiction. The Supreme Court or any justice thereof in term time or vacation shall have original jurisdiction to issue writs of quo warranto and mandamus; and such other writs as are now or may hereafter be prescribed by law; and shall have power to appoint a clerk who shall give bond in such manner as may be prescribed by law, who shall receive such compensation as the Legislature may provide, and shall be subject to removal by said court.

"All civil cases which may be pending in the Courts of Civil Appeals shall, as soon as practicable after the organization of the Supreme Court, be certified thereto, and the records thereof transmitted to the Supreme Court to be decided by said court."

By striking out all of Section 6, Article 5, of the present Constitution.

By striking out of Section 11, Article 5, of the present Constitution, the following words: "the Courts of Civil Appeals."

Section A. All the officers, judges, clerks and others that may be affected by this amendment shall discharge their respective duties under the present Constitution until this amendment is put into effect by the Legislature, which shall be done at the next regular session thereof, except as herein provided.

Section B. This amendment shall be submitted to the qualified voters of the State at an election to be held throughout the State on the last Saturday in September, 1917. At said election the vote shall be by official ballot, which shall have printed or written at the top thereof in plain letters the words "Official Ballot." Said ballot shall have also written or printed thereon the words "For the amendment to Article 5 of the Constitution increasing the membership of the Supreme Court and abolishing the Court of Civil Appeals," and the words "Against the amendment to Article 5 of the Constitution increasing the membership of the Supreme Court and abolishing the Court of Civil Appeals." All voters favoring said amendment shall erase the word "Against the amendment to Article 5 of the Constitution increasing the membership of the Supreme Court and abolishing the Court of Civil Appeals," and those opposing the said amendment shall erase the words "For the amendment to Article 5 of the Constitution increasing the membership of the Supreme Court and abolishing the Court of Civil Appeals."

The amendment was adopted.

The Clerk was directed to call the roll, and the resolution was passed by the following vote:

Yeas—111.

Bagby.	Bryant.
Baker.	Burton of Rusk.
Beard of Harris.	Butler.
Beard of Milam.	Cadenhead.
Beasley.	Canales.
Beason.	Carlock.
Bedell.	Cates.
Bertram.	Clark.
Blackburn.	Cope.
Blackmon.	Crudgington.
Blalock.	Davis of Dallas.
Bland.	Davis of Grimes.
Bledsoe.	Davis
Boner.	of Van Zandt.
Bryan.	De Bogory.

Denton.	Pillow.
Dodd.	Pope.
Dunnam.	Raiden.
Estes.	Reeves.
Fairchild.	Richards.
Fisher.	Roemer.
Florer.	Rogers.
Fly.	Russell.
Greenwood.	Sackett.
Haidusek.	Sentell.
Hardey.	Schlesinger.
Hartman.	Schlosshan.
Hawkins.	Scholl.
Hill.	Seawright.
Holland.	Smith of Bastrop.
Hudspeth.	Smith of Scurry.
Johnson.	Spencer of Nolan.
Laas.	Spencer of Wise.
Lacey.	Spradley.
Laney.	Stewart.
Lange.	Swopé.
Lanier.	Templeton.
Lee.	Terrell.
Lowe	Thomas.
of McMullen.	Thompson
McComb.	of Hunt.
McDowra.	Thompson
Meador.	of Red River.
Mendell.	Tillotson.
Metcalfe.	Tilson.
Miller of Austin.	Tinner.
Miller of Dallas.	Tschoepe.
Murrell.	Valentine.
Neeley.	Veatch.
Neill.	Walker.
Nichols.	White.
Nordhaus.	Williams
O'Banion.	of McLennan.
O'Brien.	Williford.
Osborne.	Wilson.
Parks.	Woods.
Peddy.	Yantis.
Peyton.	

Nays—6.

Brown.	Smith of Hopkins.
Dudley.	Taylor.
Robertson.	Trayler.

Absent.

Cox.	Monday.
Harris.	Moore.
Jones.	Morris.
Lindemann.	Poage.
Low	Sallas.
of Washington.	Sholars.
McCoy.	Thomason
McFarland.	of Nacogdoches.
Martin.	Woodul.

Absent—Excused.

Bell.	Thomason
Burton of Tarrant.	of El Paso.
Fitzpatrick.	Upchurch.
McMillin.	Wahrmund.
Strayhorn.	Williams
	of Brazoria.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL NO. 502.

The Speaker laid before the House, for consideration at this time, the following report of the conference committee on House bill No. 502:

Committee Room,

Austin, Texas, March 9, 1917.

Hon. W. P. Hobby, President of the Senate, and Hon. F. O. Fuller, Speaker of the House of Representatives.

Sirs: We, your free conference committee appointed by the President of the Senate and the Speaker of the House, respectively, to consider House bill No. 502, with Senate amendments, beg leave to report as follows:

We have adjusted the differences that have arisen between the two houses by reason of the amendments attached to the bill by the Senate, and we recommend that the House and Senate, respectively, concur in all amendments.

Respectfully submitted,

LANGE,
FISHER,
SPRADLEY,

On part of the House.

HUDSPETH,
WESTBROOK,
KING,
BEE,
HOPKINS,

On part of the Senate.

On motion of Mr. Lange, the report was adopted.

Mr. Lange moved to reconsider the vote by which the report was adopted and to table the motion to reconsider.

The motion to table prevailed.

HOUSE BILL NO. 238 WITH SENATE AMENDMENTS.

Mr. Canales called up from the Speaker's table, with Senate amendments, for consideration of the amendments,

H. B. No. 238, A bill to be entitled "An Act to authorize the commissioners courts of the several counties of Texas to create and establish defined districts for irrigation purposes to be known as water improvement districts; empower such districts to construct reservoirs, dams, canals, laterals, ditches, pumping plants and other internal improvements necessary to irrigation systems; to order and hold elections for the purpose

of voting on irrigation propositions and establishment of such districts, etc.; providing for sale of bonds, repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

The Speaker laid the bill before the House, and the Senate amendments were read.

The Clerk was directed to call the roll, and the House concurred in the Senate amendments by the following vote:

Yeas—106.

Bagby.	McMillin.
Beard of Harris.	Meador.
Beasley.	Mendell.
Beason.	Metcalfe.
Bedell.	Miller of Austin.
Bertram.	Miller of Dallas.
Blackburn.	Murrell.
Blackmon.	Neill.
Blalock.	Nichols.
Bland.	Nordhaus.
Bledsoe.	O'Banion.
Boner.	O'Brien.
Brown.	Osborne.
Bryan.	Parks.
Burton of Rusk.	Peddy.
Butler.	Peyton.
Cadenhead.	Pillow.
Canales.	Pope.
Carlock.	Raiden.
Cates.	Reeves.
Clark.	Richards.
Cope.	Robertson.
Davis of Dallas.	Roemer.
Davis	Russell.
of Van Zandt.	Sentell.
De Bogory.	Schlesinger.
Denton.	Schlosshan.
Dodd.	Scholl.
Dudley.	Seawright.
Dunnam.	Smith of Bastrop.
Estes.	Smith of Hopkins.
Fairchild.	Smith of Scurry.
Fisher.	Spencer of Nolan.
Fly.	Spencer of Wise.
Greenwood.	Spradley.
Haidusek.	Stewart.
Hardey.	Swope.
Hartman.	Templeton.
Hawkins.	Terrell.
Hill.	Thomas.
Holland.	Thomason
Hudspeth.	of El Paso.
Johnson.	Thompson
Laas.	of Hunt.
Lacey.	Thompson
Laney.	of Red River.
Lange.	Tillotson.
Lanier.	Tilson.
Lowe	Tinner.
of McMullen.	Tschoepe.
McDowra.	Valentine.
McFarland.	Veatch.

Walker.	Williford.
White.	Wilson.
Williams	Woods.
of McLennan.	Yantis.

Nays—2.

Lee.	Sackett.
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Present—Not Voting.

McComb.

Absent.

Baker.	Monday.
Beard of Milam.	Moore.
Cox.	Morris.
Crudgington.	Neeley.
Davis of Grimes.	Poage.
Florer.	Rogers.
Harris.	Sallas.
Jones.	Sholars.
Lindemann.	Taylor.
Low	Thomason
of Washington.	of Nacogdoches.
McCoy.	Trayler.
Martin.	Woodul.

Absent—Excused.

Bell.	Upchurch.
Bryant.	Wahrmund.
Burton of Tarrant.	Williams
Fitzpatrick.	of Brazoria.
Strayhorn.	

HOUSE BILL NO. 615 ON THIRD READING.

On motion of Mr. Fly, by unanimous consent, the regular order of business was suspended, to take up and have placed on its third reading and final passage,

H. B. No. 615, A bill to be entitled "An Act to amend Chapter 77 of the General Laws of the Thirty-second Legislature, approved March 17, 1911, and entitled 'An Act to provide for the location, establishment and maintenance of two colonies for the treatment of persons suffering from tuberculosis and to provide for the care and treatment of indigent consumptives, and making an appropriation therefor; defining a "citizen" as used in this act, and declaring an emergency,' as amended by the Act of March 31, 1913, by adding thereto Sections 22, 23 and 24, authorizing charitable fraternities or societies in this State to erect upon the grounds of the State Tuberculosis Sanitarium accommodations for the preferential use of their own members and their families and the widows and children of their deceased members, such persons to be

otherwise admitted, maintained, cared for and treated in said sanitarium under the same rules and regulations as other patients thereof, and declaring an emergency."

The Speaker laid the bill before the House, and it was read third time.

Mr. Fly offered the following amendment to the bill:

Amend House bill No. 615, page 2, by adding after the word "accommodations" in line 7, the following: "And provided the charity fraternity or society entering a patient or patients shall provide such pro rata part for the maintenance of such patient or patients as may be found just and equitable pending the next succeeding appropriation to be made by the Legislature of Texas for the maintenance of said Tuberculosis Sanitarium."

The amendment was adopted.

House bill No. 615 was then passed.

HOUSE BILL NO. 181 ON SECOND READING.

On motion of Mr. Spencer of Nolan, by unanimous consent, the regular order of business was suspended, to take up and have placed on its second reading and passage to engrossment,

H. B. No. 181, A bill to be entitled "An Act conferring certain powers upon the commissioners courts of the counties of this State and authorizing said courts, under such regulations as they may prescribe, to appropriate and use any sum or sums of money not exceeding two thousand five hundred dollars per year for farmers' co-operative demonstration work in their respective counties along the same lines as this work is or may be conducted by the United States Department of Agriculture; and prescribing that they may conduct such work jointly in their respective counties with the agents and representatives of the United States Department of Agriculture upon such terms and conditions as may be agreed upon between the agents of the Department of Agriculture and the commissioners court."

The Speaker laid the bill before the House, and it was read second time.

Mr. Spencer of Nolan offered the following amendments to the bill:

(1)

Amend caption of House bill No. 181 by inserting after the word "work" in line 12 of said caption of the printed bill the additional words "and farm home demonstration work."

(2)

Amend caption of House bill No. 181 by inserting at the end of said caption in line 18 of the printed bill the following words: "and declaring an emergency."

The amendments were severally adopted.

House bill No. 181 was then passed to engrossment.

HOUSE BILL NO. 339 ON FINAL PASSAGE.

The Speaker laid before the House, as unfinished business, on its final passage,

H. B. No. 339, A bill to be entitled "An Act to define a delinquent negro child, and to regulate the treatment and control of same; providing for commitment of the delinquent and incorrigible negro juveniles in the State institution to be hereafter known as the State Training School for Negro Boys, located at Rusk, Henderson county, Texas; and to provide for the appointment by the Governor of six trustees, and defining the duties of said trustees, etc., and declaring an emergency."

Mr. Dunnam offered the following amendments to the bill:

(1)

Amend House bill No. 339 by striking out all after the enacting clause and inserting in lieu thereof the following:

Section 1. There shall be established and maintained at the Ferguson State Farm in Madison county, Texas, a school for the education and training of delinquent negro boys to be named and known as the State Training School for Negro Boys, the government of which shall be vested in the Board of Prison Commissioners of this State. The said Board of Prison Commissioners shall manage and control said institution in accordance with the law, rules and regulations now governing the State Juvenile Training School and the State Training School for Boys, located in Coryell county, Texas, so far as said law, rules and regulations are applicable and practicable. Said Board of Prison Commissioners shall have the same powers as are now conferred upon the Board of Trustees of the State Juvenile Training School and the State Training School for Boys, in the management of the institution known as the State Training School for Negro Boys.

Sec. 2. All negro boys that are now

confined in the State Training School for Boys, located in Coryell county, Texas, shall, as soon as this law be passed and take effect, be transferred to the Ferguson State Farm by the Board of Prison Commissioners, and the Board of Trustees of the said State Juvenile Training School for Boys, are hereby authorized and are required to deliver to said Board of Prison Commissioners all the negro boys now confined in said institution, in order that they may be transferred to the Ferguson State Farm.

Sec. 3. Hereafter all negro male persons under the age of seventeen (17) years, who shall be convicted of a felony or other delinquency, in any court within this State, unless his sentence be suspended as provided by law, or otherwise disposed of, or unless by reason of the length of the term for which he is sentenced, he is required under the law to be confined in the State penitentiary, shall be confined in the State Training School for Negro Boys.

Sec. 4. The Board of Prison Commissioners shall set apart for the use of the State Training School for Negro Boys, all necessary grounds, lands, equipments, buildings, etc., now under the supervision of said Board of Prison Commissioners, at the Ferguson State Farm, which shall be used for the State Training School for Negro Boys.

Sec. 5. All laws and parts of laws in conflict with this act are hereby expressly repealed.

Sec. 6. The crowded condition of the calendar at this time creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is hereby suspended, and this act shall take effect from and after its passage.

(2)

Amend the caption of House bill No. 339 by striking out all above the enacting clause and insert the following in lieu thereof:

A bill to be entitled "An Act to establish and maintain at the Ferguson State Farm in Madison county, Texas, a school for the education and training of delinquent and incorrigible negro boys, to be named and known as 'The State Training School for Negro Boys,' the government and management of which shall be vested in the Board of Prison Commissioners of this State; the said Board of Prison Commissioners shall manage and control said institu-

tion in accordance with the law, rules and regulations now governing the State Juvenile Training School and the State Training School for Boys, located in Coryell county, Texas, so far as said laws, rules and regulations are applicable and practicable. Said Board of Prison Commissioners shall have the same powers in the management of said institution as are now conferred by law upon the Board of Trustees of the State Juvenile Training School and the State Training School for Boys, and all negro boys that are now confined in the State Juvenile Training School and State Training School for Boys, located in Coryell county, Texas, shall as soon as this law be passed and take effect be transferred to the Ferguson State Farm by said Board of Prison Commissioners, and all negro boys under the age of seventeen (17) years who shall hereafter be convicted of a felony or other delinquency, in any court in this State, shall be confined in the institution known as the State Training School for Negro Boys, and declaring an emergency."

On motion of Mr. Sentell, further consideration of the bill was postponed until next Monday, March 12.

HOUSE BILL NO. 451 ON SECOND READING.

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 451, A bill to be entitled "An Act to provide for the purchase of a site for, and for the establishment, location and construction of, an asylum in South Texas for the care, treatment and support of negro insane persons, and to make an appropriation therefor, and declaring an emergency."

The bill was read second time.

Mr. Terrell offered the following amendments to the bill:

(1)

Amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Section 1. That there shall be constructed, established and maintained a hospital for the care, treatment and support of all insane persons in this State of African blood or of African descent. It shall be known as the Hospital for Negro Insane. The hospital shall be located at Rusk, Texas, and on the property there situated and owned by the

State of Texas, and now held and in part used by the penitentiary system of the State.

Sec. 2. As soon as this act becomes effective and operative the Governor shall appoint a board of managers for said hospital, in accordance with the provisions of Title 10 of the Revised Civil Statutes of the State of Texas, who shall have the power, and authority and shall receive the compensation and shall perform the duties provided in said law, and in accordance with the general laws of this State. Said board of managers shall, in addition to the duties and powers given them in said laws, have the authority, and it shall be their duty to employ, with the consent of the Governor, the State Architect, if his services are available and if not, some other architect to prepare plans and specifications for the erection, remodeling, change, repair or alteration of such building or buildings and the installing of such equipment as may be necessary to construct or alter or install as may be proper or necessary to carry out the provisions of this act. Said board of managers, under the control and direction of the Governor, Comptroller of Public Accounts, and State Treasurer, shall have the power and it is made their duty to select the site for said hospital on the property belonging to the State at Rusk, Texas, and all or any part of said property or such portion thereof as may be so selected by them under the control and direction of the Governor, Comptroller of Public Accounts and State Treasurer, is hereby set aside to and for said hospital.

Sec. 3. The board of managers for said hospital, appointed by the Governor, shall appoint a superintendent of said hospital, whose duties, qualifications, terms of office and emoluments shall be the same as are now or may hereafter be provided by law for the superintendent of the State Lunatic Asylum at Austin, Texas.

Sec. 4. As soon as practicable after this act becomes effective, all negro insane persons in this State, now inmates of any jail or insane asylum in this State shall be transferred to the Hospital for Negro Insane, and hereafter all insane persons of African blood entitled by law to be admitted or admitted to the asylums of this State, shall be sent to said hospital at Rusk, Texas.

Sec. 5. The support and general management of the said hospital shall be the same and equal in every respect as that which are now provided or as may here-

after be provided for the other asylums for the insane in the State of Texas.

Sec. 6. All boards of managers, superintendents, officials and physicians shall be white persons, and as many of the other employes and attendants as practicable shall be white persons.

Sec. 7. The board of managers under the control and direction of the Governor, Comptroller of Public Accounts and State Treasurer, shall cause to be erected fireproof buildings or have remodeled existing buildings selected by them so that they will be of such character so that such buildings erected or remodeled shall be of substantial, permanent and suitable character, sufficient to accommodate at least one thousand inmates; said buildings to be provided with modern improvements for furnishing water, heat, ventilation and sewerage and otherwise in keeping with modern ideas of the suitable character for buildings and appliances to obtain the best results in the treatment and care of insane persons. The board of managers, with the consent of the Governor, may select a competent architect to supervise the erection, remodeling and equipping of all said buildings and other improvements, all of which shall be made and erected under the direction, management and supervision of the superintendent of said hospital and of the supervising architect to be appointed by the board with the consent of the Governor, which supervising architect shall be under the control of the State Architect; the salary and compensation of such supervising architect shall be deducted from the appropriations made herein for said hospital, and is not to exceed \$2500 per annum. Bids to erect said or such buildings, alter, remodel or repair such buildings, and install such other improvements shall be let to the lowest responsible bidder or bidders, the bids being so arranged that the different buildings and units of the same and installation may be bid upon by items or units; the contractor or contractors shall enter into a good and sufficient bond to be approved by the Governor, all awards to bidders to be made with his approval, and payable to the State of Texas in a sum double the amount of the contract, conditioned that he or they will do the work contracted for according to the plans and specifications furnished by the architect, and use such materials in the construction, remodeling or repair of such buildings, equipment and improvements as may be called for in said plans and specifications, and comply in every respect with all the conditions of said

contract and pay for all labor and material; eighty per cent of the value of the materials to be paid when actually delivered on the grounds, and the same per cent for labor when done, payable every two weeks, to be only payable on the certificate of the supervising architect, approved by the State Architect and the Governor, and the remaining twenty per cent to be paid when said buildings, equipment or other improvements are completed to the entire satisfaction of the Governor, supervising architect and the State Architect and received by them; provided, that the Comptroller shall not issue any warrants except upon itemized statements sworn to by the contractor or contractors and approved by said supervising architect and the Governor as a voucher for same, which shall be filed with the Comptroller. The architect, if other than the State Architect, preparing plans and specifications, and the supervising architect, shall each execute a bond payable to the State of Texas at Austin, Texas, in a sum to be fixed by the Governor, and to be approved by him, with good and sufficient sureties, conditioned that said architect or architects shall be liable and bound to pay to the State of Texas all such damages as it may sustain by reason of defective plans and specifications, or any wilful failure or negligent performance of duty.

Sec. 8. That there shall be, and there is hereby appropriated out of the general revenues of this State, not otherwise appropriated, the sum of two hundred thousand (\$200,000) dollars, or so much thereof as may be necessary, for the building and remodeling and equipping of buildings and other improvements as herein provided for.

Sec. 9. That in the provisions made in the erection or remodeling of buildings due care and thought should be given, and such improvements should be made so that the capacity of the hospital may be added to and enlarged from time to time as necessity may arise in the future.

Sec. 10. So much of the lands of the East Texas penitentiary at Rusk, Texas, as may be requisite and needful, as well as any improvements now situated thereon, for such buildings, grounds, parks, for pasturage, orchards and for growing agricultural products are hereby set aside for the use of said hospital.

Sec. 11. The Governor, Comptroller of Public Accounts and State Treasurer shall constitute a board to determine

what, if any, property now owned by the State at Rusk, Texas, and used in whole or in part by the penitentiary system, shall be set apart to and used permanently by the hospital; and the Governor, together with the State Comptroller of Public Accounts and the State Treasurer shall let the contract or contracts for the construction or remodeling of said buildings, equipment or other improvements.

Sec. 12. The commissioners of the penitentiary are hereby directed and required to furnish said board of managers with a sufficient number of able-bodied convicts to prepare the grounds for such hospital buildings, and to do the excavating and other work for the construction of said buildings, and to prepare and deliver all such materials as may be required in the construction and equipment of said buildings, and to do and perform all other work in the erection and construction of such buildings for which convicts may be found suitable and competent.

Sec. 13. Whereas, there now being a large number of negro insane persons in jails of this State, and also in the asylums of this State, which asylums are absolutely needed and required for exclusive use, support and habitation of white insane persons; and, whereas, the present asylums of this State are not sufficient to properly care for the maintenance and support of such white insane persons and such negro insane persons; and, whereas, it is not to the public interest that such white and negro insane persons be confined in the same institutions, creates a public emergency and imperative necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that said rule is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

(2)

Amend the bill by striking out the caption and insert in lieu thereof the following:

"An Act to provide for the location, establishment and construction of a hospital at Rusk, Texas, for the care, treatment and support of insane persons of the African race, or African descent, and granting the use of certain State property at Rusk, Texas, for the use of same, providing that the Governor of this State, the Comptroller of Public Accounts and

the State Treasurer shall constitute a board to locate said asylum and to let all contracts for the establishment and construction of the same; making an appropriation therefor; and declaring an emergency."

Signed—Neeley and Terrell.

Question—Shall the amendments be adopted?

BILL ORDERED NOT PRINTED.

On motion of Mr. Cope, by unanimous consent, it was ordered that House bill No. 831 be not printed.

BILLS SIGNED BY THE SPEAKER.

The Speaker signed, in the presence of the House, after giving due notice thereof, and their captions had been read severally, the following enrolled bills:

H. B. No. 673, "An Act creating the Skidmore Independent School District, known as Common School District No. 1, in Bee county, Texas, etc., and declaring an emergency."

H. B. No. 64, "An Act to amend Chapter 68 of the Acts of the Thirty-second Legislature and Chapter 154 of the Acts of the Thirty-third Legislature, and to provide that sand and other deposits taken for the raising of the grade of the salt flats in the northern part of Corpus Christi and the lowlands lying north of the north boundary line of the city of Corpus Christi, in Nueces county, Texas, shall be exempt from the provisions of said Chapter 68, and declaring an emergency."

H. B. No. 35, "An Act to establish and create a criminal judicial district of Dallas county, Texas, and to fix the territorial limits of said criminal judicial district, and to designate the criminal district courts that have jurisdiction in said criminal judicial district of Dallas county; to provide for the election, qualification, powers and compensation and expense of office of the criminal district attorney for said districts to provide for the appointment of assistants to the criminal district attorney, and to provide for their powers, duties and method of payment; and to provide for the present county attorney of Dallas county to assume the duties of and conduct the business of the criminal district attorney of Dallas county until his successor shall be elected and qualified, and repealing all laws and parts of laws in

conflict with this act, and declaring an emergency."

H. B. No. 31, "An Act creating the county court of El Paso county for civil cases, to fix and prescribe the jurisdiction thereof, and to conform to such change in the jurisdiction of the county court of El Paso county, fixing the salaries of the judges of the county court of El Paso county, and of the county court of El Paso county for civil cases; providing for the appointment and election of the judges of said court hereby created; providing for the appointment of special judges and filling of vacancies in said office, and declaring an emergency."

H. B. No. 542, "An Act to amend Section 2, Chapter 30, of the Special Laws of the Thirty-first Legislature, as amended by Special Laws of the Thirty-second Legislature, being 'An Act to create a road commission for Jones, Haskell and Taylor counties.'"

H. B. No. 606, "An Act creating and incorporating the Wilmer Independent School District in Dallas county, Texas, etc., and declaring an emergency."

H. B. No. 630, "An Act to amend Sections 2, 8, 9, 12 and 40 of Chapter 148, Local and Special Laws of the State of Texas, passed by the Regular Session of the Thirty-third Legislature, same being a special road law for Fayette county, Texas, providing that special taxes shall be expended in the district voting same; providing for the issuance of serial bonds; providing for a levy of an ad valorem tax; providing for a road and bridge maintenance tax for special road districts; providing that this act shall be cumulative of Chapter 53, Acts of the Thirty-first Legislature, and all of the general laws of the State on the subject treated of herein, and declaring an emergency."

H. B. No. 72, "An Act to provide for the establishment, maintenance and government of two State normal colleges; providing for the location of same, and declaring an emergency."

ADJOURNMENT.

Mr. Nordhaus moved that the House recess to 8 o'clock p. m. today.

Mr. Thomas moved that the House adjourn until 9:30 o'clock a. m. tomorrow.

The motion to adjourn prevailed, and the House, accordingly, at 6:05 o'clock p. m., adjourned until 9:30 o'clock a. m. tomorrow.

APPENDIX.

REPORT OF COMMITTEE ON AGRICULTURE.

Committee Room,
Austin, Texas, March 9, 1917.

Hon. F. O. Fuller, Speaker of the House of Representatives.

Sir: Your Committee on Agriculture, to whom was referred Senate bill No. 381, have had the same under consideration and I am instructed to report it back to the House with the recommendation that it do pass.

METCALFE, Vice-Chairman.

REPORT OF COMMITTEE ON APPROPRIATIONS.

Committee Room,
Austin, Texas, March 9, 1917.

Hon. F. O. Fuller, Speaker of the House of Representatives.

Sir: Your Committee on Appropriations, to whom was referred Senate bill No. 334, have had the same under consideration and I am instructed to report it back to the House with the recommendation that it do pass.

PEYTON, Chairman.

REPORTS OF COMMITTEE ON EDUCATION.

Committee Room,
Austin, Texas, March 9, 1917.

Hon. F. O. Fuller, Speaker of the House of Representatives.

Sir: Your Committee on Education, to whom was referred Senate bill No. 471, have had the same under consideration and I am instructed to report it back to the House with the recommendation that it do pass.

THOMASON of Nacogdoches, Chairman.

Committee Room,
Austin, Texas, March 9, 1917.

Hon. F. O. Fuller, Speaker of the House of Representatives.

Sir: Your Committee on Education, to whom was referred House bill No. 826, have had the same under consideration and I am instructed to report it back to the House with the recommendation that it do pass.

THOMASON of Nacogdoches, Chairman.

REPORT OF COMMITTEE ON JUDICIAL DISTRICTS.

Committee Room,
Austin, Texas, March 9, 1917.

Hon. F. O. Fuller, Speaker of the House of Representatives.

Sir: Your Committee on Judicial

Districts, to whom was referred House bill No. 239, have had the same under consideration and I am instructed to report it back to the House with the recommendation that it do pass.

TEMPLETON, Chairman.

REPORT OF JUDICIARY COMMITTEE.

Committee Room,
Austin, Texas, March 9, 1917.

Hon. F. O. Fuller, Speaker of the House of Representatives.

Sir: Your Judiciary Committee, to whom was referred Senate bill No. 98, have had the same under consideration and I am instructed to report it back to the House with the recommendation that it do pass.

BRYANT, Chairman.

REPORT OF COMMITTEE ON REFORMS IN CIVIL PROCEDURE.

Committee Room,
Austin, Texas, March 8, 1917.

Hon. F. O. Fuller, Speaker of the House of Representatives.

Sir: Your Committee on Civil Procedure, to whom was referred Senate bill No. 356, have had the same under consideration and I am instructed to report it back to the House with the recommendation that it do pass. Mr. O'Brien has been appointed to make a full report thereon.

CARLOCK, Chairman.

REPORT OF COMMITTEE ON MUNICIPAL CORPORATIONS.

Committee Room,
Austin, Texas, March 9, 1917.

Hon. F. O. Fuller, Speaker of the House of Representatives.

Sir: Your Committee on Municipal Corporations, to whom was referred House bill No. 832, have had the same under consideration and I am instructed to report it back to the House with the recommendation that it do pass. Mr. Crudgington has been appointed to make a full report thereon.

MENDELL, Chairman.

REPORT OF COMMITTEE ON PUBLIC HEALTH.

Committee Room,
Austin, Texas, March 8, 1917.

Hon. F. O. Fuller, Speaker of the House of Representatives.

Sir: Your Committee on Public

Health, to whom was referred Senate bill No. 456, have had the same under consideration and I am instructed to report it back to the House with the recommendation that it do pass.

DODD, Vice-Chairman.

REPORTS OF COMMITTEE ON ROADS, BRIDGES AND FERRIES.

Committee Room,
Austin, Texas, March 8, 1917.

Hon. F. Q. Fuller, Speaker of the House of Representatives.

Sir: Your Committee on Roads, Bridges and Ferries, to whom was referred Senate bill No. 445, have had the same under consideration and I am instructed to report it back to the House with the recommendation that it do pass.

LEE, Chairman.

Committee Room,
Austin, Texas, March 9, 1917.

Hon. F. O. Fuller, Speaker of the House of Representatives.

Sir: Your Committee on Roads, Bridges and Ferries, to whom was referred House bill No. 9, have had the same under consideration and I am instructed to report it back to the House with the recommendation that it do pass.

LEE, Vice-Chairman.

REPORT OF COMMITTEE ON STOCK AND STOCK RAISING.

Committee Room,
Austin, Texas, March 8, 1917.

Hon. F. O. Fuller, Speaker of the House of Representatives.

Sir: Your Committee on Stock and Stock Raising, to whom was referred House bill No. 625, have had the same under consideration and I am instructed to report it back to the House with the recommendation that it do not pass. Mr. Martin gave notice of a minority report.

NEILL, Chairman.

REPORTS OF COMMITTEE ON EN- ROLLED BILLS.

Committee Room,
Austin, Texas, March, 1917.

Hon. F. O. Fuller, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 354, "An Act to reorganize

the Thirty-eighth, the Fifty-first, the Sixty-third and the Seventieth Judicial Districts of the State of Texas; and to create the Eighty-third Judicial District of the State of Texas; and to prescribe the time and fix the terms of holding the courts in each of the said Judicial Districts; and to conform all writs and process from such courts to such changes, and to provide for the appointment and election of a district judge and district attorney in said Eighty-third Judicial District, and to make all process issued or served before this act takes effect, including recognizances and bonds, returnable to the terms of the courts in the several districts as herein fixed; to validate such process and to validate the summoning of grand and petit jurors and juries; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Have carefully compared same, and find it correctly enrolled, and have this day, at 5:27 o'clock p. m., presented same to the Governor for his approval.

BEDELL, Chairman.

Committee Room,
Austin, Texas, March, 1917.

Hon. F. O. Fuller, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 226, "An Act for the purpose of promoting and improving the development of the country schools of the State by the appropriation of one million dollars each year, or such part thereof as may be necessary for the next two fiscal years ending August 31, 1918, and 1919, respectively, by allowing the State Board of Education to aid any one school in any sum not exceeding five hundred dollars in any one year, and providing that schools receiving such aid be located and constructed in a certain way, and having certain and necessary equipment; and providing for the employment of competent teachers; and said act further providing that no school having over three hundred scholastics exclusive of transfers shall receive such aid; and providing that schools receiving such aid shall have had certain percentages of attendance with exceptions; and providing said schools shall levy a local school tax of not less than fifty cents on the one hundred dollars valuation; and providing courses of study for such country school and setting aside fifty thousand dollars of the appropriation annually for the relief of back-

ward districts; and giving the State Board of Education power to establish rules and regulations for the organization of such country schools, and otherwise carrying out the intentions of this act; and defining the powers of the State Board of Education; and providing for assistants to the State Superintendent to be known as 'rural school supervisors'; and providing for reports to be made to the State Board of Education; and providing for the manner of payment and disbursement of all money granted under the provisions of this act; and providing said schools can accept the benefits of this act without waiving the benefits and privileges of other laws; and providing certain funds for the payment of rural school supervisors and their traveling expenses; repealing all laws and parts of laws in conflict therewith, and declaring an emergency."

Have carefully compared same, and find it correctly enrolled, and have this day, at 5:27 o'clock p. m., presented same to the Governor for his approval.

BEDELL, Vice-Chairman.

FORTY-FOURTH DAY.

(Saturday, March 10, 1917.)

The House met at 9:30 o'clock a. m., pursuant to adjournment.

(Speaker Fuller in the chair.)

The roll was called, and the following members were present:

Bagby.	Davis of Dallas.
Baker.	Davis of Grimes.
Beard of Harris.	Davis
Beasley.	of Van Zandt.
Beason.	De Bogory.
Bedell.	Denton.
Bertram.	Dodd.
Blackburn.	Dudley.
Blackmon.	Dunnam.
Blalock.	Estes.
Bland.	Fairchild.
Bledsoe.	Fisher.
Boner.	Florer.
Brown.	Fly.
Bryan.	Haidusek.
Bryant.	Hardey.
Burton of Rusk.	Harris.
Butler.	Hartman.
Cadenhead.	Hawkins.
Canales.	Hill.
Carlock.	Holland.
Cates.	Hudspeth.
Clark.	Johnson.
Cope.	Jones.
Cox.	Laas.
Crudgington.	Lacey.

Laney.	Sentell.
Lange.	Schlesinger.
Lanier.	Scholl.
Lee.	Seawright.
Lindemann.	Sholars.
Lowe	Smith of Bastrop.
of McMullen.	Smith of Hopkins.
Low	Smith of Scurry.
of Washington.	Spencer of Nolan.
McComb.	Spencer of Wise.
McDowra.	Spradley.
McFarland.	Stewart.
McMillin.	Swope.
Martin.	Taylor.
Meador.	Templeton.
Mendell.	Terrell.
Metcalf.	Thomas.
Miller of Austin.	Thomason
Miller of Dallas.	of El Paso.
Moore.	Thompson
Morris.	of Hunt.
Murrell.	Thompson
Neill.	of Red River.
Nichols.	Tillotson.
Nordhaus.	Tilson.
O'Banion.	Tinner.
O'Brien.	Traylor.
Osborne.	Tschoepe.
Parks.	Valentine.
Peddy.	Veatch.
Peyton.	Walker.
Pillow.	White.
Poage.	Williams
Pope.	of Brazoria.
Raiden.	Williams
Reeves.	of McLennan.
Richards.	Williford.
Roemer.	Wilson.
Rogers.	Woods.
Russell.	Woodul.
Sackett.	Yantis.
Sallas.	

Absent.

Greenwood.	Robertson.
Monday.	

Absent—Excused.

Beard of Milam.	Schlosshan.
Bell.	Strayhorn.
Burton of Tarrant.	Thomason
Fitzpatrick.	of Nacogdoches.
McCoy.	Upchurch.
Neeley.	Wahrmund.

A quorum was announced present.

Prayer was offered by Rev. J. C. Mitchell, Chaplain, as follows:

Our heavenly Father, we trust that we are grateful to Thee for Thy manifold blessings. Our lives have been precious in Thy sight. We are in this presence prepared in a measure to perform the duties of the day. Thou hast written that man shall be a willing subject in